United Nations A/HRC/25/NGO/74

General Assembly

Distr.: General
25 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The role of the Human Rights Commission of Sri Lanka (HRCSL) to contribute towards accountability, reconciliation and protection of Human Rights Defenders (HRDs)

Despite some public pronouncements and individual initiatives, the HRCSL appeared to be unwilling and unable to contribute towards accountability, reconciliation and protection of HRDs at risk. This submission[1] addresses some areas of concern in relation to the HRCSL's performance, focusing primarily on 2013-2014.

1. Protection of HRDs

On several occasions when HRDs were attacked (physically and verbally) and complaints made, they were dealt with very slowly, and on some occasions, there has been no response. There has also been an unwillingness to fully use the powers vested in the HRCSL against respondents, including summoning them for inquiries and taking action when summons are not responded to. Ten prominent case studies are given in footnotes[2].

[1] INFORM Human Rights Documentation Centre, Colombo, Sri Lanka, associates / endorses itself with this submission

[2] Below are ten prominent cases studies relation to HRDs and the response or lack of response of the HRCSL, updated as of January 2014 unless otherwise stated:

i. When families of disappeared persons from the North were stopped from coming to Colombo to submit a petition to the UN, they made a complaint to the head office of the HRCSL in March 2013. The Vavuniya branch summoned the complainants and respondents (Police) twice in 2013, but the Police didn't turn up and there has been no further action or information provided to the complainants.

ii. When families of disappeared persons were again stopped from going to Colombo for a human rights event in November 2013, they had complained to the Vavuniya branch of the NHRC. No action has been taken.

iii. The Centre for Policy Alternatives (CPA) and its Executive Director filed a complaint (Complaint No: HRC/3083/13) before the NHRC on 12th August 2013, against the government owned Independent Television Network of Sri Lanka (ITN) and its Chairmen. The complaint was on the basis that a news item appearing on the 7:00pm Sinhala language news broadcast of ITN on Sunday 14th July 2013 violates several fundamental rights of both CPA. An initial inquiry was held only after 6 months and the date for next inquiry was postponed by further two months.

iv. Prominent woman HRD, Dr. Nimalka Fernando, filed a complaint with the NHRC on 6th Nov. 2013 (Complaint no. HRC/4203/2013) about violating her rights as a HRD by the government owned and controlled Sri Lanka Broadcasting Corporation (SLBC). The NHRC has sent a letter to the SLBC requesting them to produce the tape and other relevant information, before 25th Nov. 2013, but to the best of the complainant's knowledge, this has not been complied with, and the NHRC has not done any follow up, and had not informed her of updates. There has been no reply to her letter asking for updates, sent on 18th December 2013. The NHRC also appeared unable or unwilling to stop the continuing attacks on her and other HRDs by the SLBC, even after the complaint.

v. The complained filed in April 2013 (Complaint no. 1548/13) by a HRD, Mr. Ruki Fernando, attached to INFORM Human Rights Documentation Centre and Chairman of the Rights Now Collective for Democracy, supported by video footage, photos and eyewitness testimonies, has also not been resolved yet. This complaint was about the disruption of a peaceful vigil by the Police.

vi. In October 2012, independent web journalist and HRD, Mr. Krishan Rajapakse was visited by persons claiming to be from the Police and questioned in an intimidating manner and threatened. When he went to the NHRC to complain on 8th October, the officer and even the head of the complaints division refused to take the complaint. When Mr. Rajapakse asked this to be given in writing, it was refused. Later, Mr. Rajapakse sent a copy of the complaint to the Chairman of the Commission by fax and registered post. Mr. Rajapakse received a reply only several months later, by which time he had already left the country due to imminent threats to his life.

2. Hotline

The HRCSL has refused to take immediate action to prevent imminent violations and respond to urgent life and death situations, when calls were made to the "hotline"[3].

3. Conducting inquires on its "own motion"

The HRCSL is vested with powers to investigate allegations of infringements through article 14 of its enabling act. Despite some occasional initiatives, many serious allegations of violations were ignored by the HRCSL, including consistent attacks against HRDs by government Ministers, MPs and state owned and controlled media. In few occasions, it did appear to use these special powers, but the results are not clear[4].

4. Commissioners and Senior Staff[6]

In February 2012, one of the Commissioners, Dr. Ananda Mendis, had reached out to several HRDs, resigned after just one year in office. He complained of "inefficiency" in the workings of the Commission; of sub-standard crime scene investigations; and of "interference" by a senior executive officer.[6] He was replaced by Dr. Prathiba Mahanamahewa,

vii. On 30th Nov. 2011 and again on 9th Feb. 2012, Mrs. Sandya Ekneligoda, wife of disappeared HRD and journalist / cartoonist Prageeth Ekneligoda, requested the NHRC to summon Mr. Mohan Peiris, based on a statement he had made to the UN Committee Against Torture in Nov. 2011, about whereabouts of her disappeared husband. But the NHRC refused her request, and instead of the normal practice of summoning people to appear before the NHRC for an inquiry, asked Mr, Peiris to send a written affidavit, and warned Mrs. Ekneligoda not to make such requests. Mrs. Ekenligoda has not been informed to date whether a written affidavit was submitted or not or any update on the progress of the case. The initial complaint about the disappearance was made by Mrs. Ekneligoda on 2nd Feb. 2010 (Complaint no. 369/2010). The NHRC had initially refused to accept the complaint, and only did so after Mrs. Ekenligoda's lawyer made strong representations.

viii. Mr. Dharmasiri Lankapeli, a HRD and the General Secretary of the Federation of Media Employees Trade Unions made a complaint to the NHRC on 20th December 2011 (Complaint no. 3940/2011) regarding the violation of his rights as a HRD by the Associated Newspapers of Ceylon Ltd, due to his activism as a Trade Union leader. He received a letter dated 11th May 2012, that the NHRC has concluded the case ex-parte. There has been no reply to a letter Mr. Lankapeli wrote to the NHRC appealing against the ex-parte closure of the case.

ix. A complaint was filed with the NHRC, regarding two HRDs who disappeared (Mr. Lalith Kumar Weeraraj and Mr. Kugan Muruganandan) by Mr. Ajith Kumara on 13th December (Complaint no: HRC/ 33852/ 2011). A further complaint was filed by Mr. Weeraraj's father to the NHRC on 16th December 2011 (Complaint no. H.R.C.3934/11). No update has been given to the complainants.

x. There is no update about a complaint that was filed in the HRCSL head office on 17th December 2013 by Mr. M. I Rahamathullah, editor of the Tamil local newspaper "Vaarauraikal", about sustained efforts to curtail his right to freedom of expression, including publication (Complaint no. HRC/4362/13). This was as a follow up to a meeting with the Director of Investigations and complaints made to the HRCSL by Mr. Rahamathullah previously.

[3] On 12th April 2013, a HRD from INFORM Human Rights Documentation Centre called the hotline requesting the NHRC to intervene, to prevent the Police from disrupting and stopping a peaceful vigil. The NHRC refused to intervene and instead, treated this as an ordinary complaint (see 1.5 above). In April 2012, the same HRD, had called the hotline late at night, to provide information about reports that two disappeared HRDs were being held in a particular Police building, and requested that the NHRC makes an immediate unannounced visit, as per the powers vested in the NHRC. The NHRC refused, and only addressed the matter the next day morning.

[4] See the section "Effectiveness of the Human Rights Commission" of Sri Lanka chapter, particularly footnote 98, in the ANNI report of 2013, available at http://www.forum-asia.org/?p=16441

[5] See the section "Membership & Selection" of Sri Lanka chapter, in the ANNI report of 2012, available at http://www.forum-asia.org/?p=15570 and the section "Membership & selection process" of Sri Lanka chapter, in the ANNI report of 2013, available at http://www.forum-asia.org/?p=16441

[6] See the section "Membership & Selection" of Sri Lanka chapter, in the ANNI report of 2012, available at http://www.forum-asia.org/?p=15570, and in particular, footnote 34.

Dean of the Faculty of Law at a military academy (Kotelawala Defence University), which is a conflict of interest. Dr. Mahanamahewa has turned out to be a supporter of the government's campaign against UN scrutiny of its rights record.

The Additional Secretary of the HRCSL also serves as a senior government official, the Chairman of the Land Reform Commission (LRC). The LRC has been used by the government to reward its supporters to gain votes in elections[7].

5. Defending the government

Immediately after the appointment of the Commissioners in February 2011, the Chairman of the HRCSL went on defending the human rights record of the government and criticizing international calls for accountability for allegations of war crimes and human rights violations.[8] In 2012-2013, one of the Commissioners, Dr. Mahanamahewa, has taken on a similar role, particularly supporting the government in its efforts to campaign against the resolution on Sri Lanka passed at the UN Human Rights Council (HRC). He has publicly condemned both UNHRC Resolutions in 2012 and 2013 and accused the UNHRC of going against its basic principles and acting contrary to the UN mandate. He observed that the second resolution was dangerous because it urges Sri Lanka to allow an opportunity for UN Rapporteurs to make observations regarding violations[9]. Dr. Mahanamahewa has repeated similar sentiments in early 2014, ahead of the proposed resolution on Sri Lanka at the 25th session of the UNHRC in March 2014, saying "a fresh resolution has the long term objectives for the West as they want Sri Lanka to be taken to the ICC (International Criminal Court)[10].

Dr. Mahanamahewa also defended the impeachment process against the Chief Justice Dr. Shirani Bandaranayake and called it constitutional[11] even when the highest courts in Sri Lanka, the Supreme Court and the Court of Appeal, determined the process to be unconstitutional[12].

6. Refusal to fulfill its functions to advice and make recommendations to the government

The HRCSL has not urged the government to ratify treaties such as the Optional Protocol to Convention against Torture and Convention against Disappearances, despite its mandate to "make recommendations to the Government on the need to subscribe or accede to treaties and other international instruments in the field of human rights"[13]. The HRCSL has also not urged the government to respond favorably to pending requests for country visits by eight (8) thematic UN Special Procedures, some as far back as in 2006.

The HRCSL also has avoided making recommendations to the government to bring the Prevention of Terrorism Act (PTA) in line with the government's international commitments, despite its mandate to "make recommendations to the Government regarding measures which should be taken to ensure that national laws and administrative practices are in accordance with international human rights norms and standards"[14].

7. Reports to the parliament

The HRCSL has not taken the initiative to submit to Parliament, reports on critical human rights issues related to media freedom, torture, disappearances, extrajudicial executions, etc., based on its power to "whenever it considers it

[7] See http://www.dailynews.lk/2010/11/18/news43.asp.
[8] See the section "Relationship with State", of Sri Lanka chapter, in the ANNI report of 2012, available at http://www.forum-asia.org/?p=15570 and the section "HRCSL joint project with the UNDP" of Sri Lanka chapter, in the ANNI report of 2013, available at http://www.forum-asia.org/?p=16441
[9] See the section "HRCSL joint project with the UNDP" of Sri Lanka chapter, in the ANNI report of 2013, available at http://www.forum-asia.org/?p=16441, and footnotes 80-86
[10] See an interview available at http://www.dailynews.lk/features/unhrc-should-investigate-ltte-barbarism-dr-prathiba-mahanamahewa
[11] See http://archives.dailynews.lk/2012/11/21/news01.asp
[12] The Bar Association of Sri Lanka (BASL), lawyers and judges associations around the world and the UN Special Rapporteur on independence of judges and lawyers had also condemned the unconstitutional impeachment process
[13] Article 10 -e of the HRCSL Act
[14] Article 10 -d of the HRCSL Act

necessary to do so, submit periodic or special reports to Parliament in respect of any particular matter or matters referred to it, and the action taken in respect thereof"[15].

8. Research and awareness raising

The HRCSL also has not taken the effort to undertake serious research and awareness campaigns on critical topics such as torture, media freedom, disappearances, extrajudicial killings, despite the powers vested in the HRCSL to "undertake research ….and disseminate and distribute results of such research"[16] and "to promote awareness and provide education in relation to human rights"[17].

9. Delegation of powers & appointment of Provincial Committees

Although the HRCSL had often complained about the lack of human resources and HRDs have offered its services and resources, the NHRC had not embarked to delegate some of its powers and work, despite the fact that the HRCSL Act explicitly authorizes that "The Commission may delegate to any officer appointed to assist the Commission any of its powers, and the person to whom such powers are so delegated may exercise those powers subject to the direction of the Commission"[18]. The HRCSL is also legally empowered to "appoint such number of sum-committees at Provincial level, as it con. iders necessary to exercise such powers'[19], but it has not done so yet.

10. Relationship with HRDs

The HRCSL, sometimes with support of the UN and in response to requests from HRDs, had held several consultations with HRDs. However, there is no report of follow up actions taken, based on concerns and recommendations made. For example, the HRCSL has not responded yet to most concerns raised by a HRD during a consultation held in July 2011 followed up by a written submission[20] and neither has it responded to a letter by the Free Media Movement in August 2013[21]. It appears that the cooperation and engagement with HRDs is selective and not genuine, rather based on gaining international credibility, including attracting funding and regaining "A" status at the International Coordination Committee of the NHRIs.

11. Postponement of the proposed National Inquiry on Torture

In December 2013, the HRCSL announced that a previously announced National Inquiry on Torture will be postponed due to the request of some civil society organizations and as the term of the present Commissioners will finish soon. Several Sri Lankan human rights organizations engaging with the HRCSL distanced themselves from this and questioned why there was no consultations with broader civil society including them. They also questioned why the date of the present Commissioners term was ending was not known when the initial announcement was made, particularly as a Commissioner had told the Inquiry would take 18 months. The question, why work by staffs of the HRCSL should be completed before the completion of term of present Commissioners was also raised. The HRCSL acknowledged concerns raised, but refused to respond substantially to concerns raised and declined to communicate further on the matter[22].

12. Reconciliation

[15] Article 30 of HRCSL Act
[16] Article 11 – f of the HRCSL Act
[17] Article 10-f of the HRCSL Act
[18] Article 24 of the HRCSL Act
[19] Article 11-b of the HRCSL Act
[20] See follow up letter sent to the NHRC after the consultation and response of the NHRC, available at http://blog.srilankacampaign.org/2012/02/toothlessness.html
[21] See the letter at http://www.srilankabrief.org/2013/08/fmm-calls-on-government-to-invite-he-un.html
[22] See http://www.rightsnow.net/?p=4532 for correspondence and a summary note

The Commonwealth Secretariat has embarked on program to support the HRCSL to play a role in national reconciliation[23], but it appears that the HRCSL has steered clear of critical issues affecting national reconciliation, such as obstructions to signing the national anthem in two languages, continuing occupation of land by the military in the North and Eastern provinces, the destruction of cemeteries of Tamil militants and building of army camps over them, restrictions on commemorating dead persons and threats to those organizing such events. Some of these has been direct violations and ignoring of the government's own Lessons Learnt & Reconciliation Commission.

There is a concern on why the HRCSL is embarking on getting involved in new area of reconciliation, when it's not able or willing to perform its basic functions related to human rights protection, which in itself will directly contribute towards the reconciliation process.

[23] See http://thecommonwealth.org/media/news/commonwealth-supporting-sri-lanka-human-rights-commission-role-national-reconciliation and http://thecommonwealth.org/media/news/human-rights-commission-sri-lanka-expresses-commitment-play-role-national-reconciliation

United Nations A/HRC/25/NGO/75

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Maarij Foundation for Peace and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11320
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Please recycle

Promoting healthcare systems development in the Middle East*

There is a firm belief that humanity is based on empathy and sympathy with others that are in adversity. Our NGO is dedicated to the promotion of human rights. Our determination binds us to seek underlying problems, provide solutions and most importantly, raise awareness. We believe that in building a community or developing a society, there are many aspects that are not limited to problems of infrastructure, and security etc. but it is about building a base of support and welfare that acts as a net for people to fall back on in times of hardship. On a basic level, human hardship is characterized by the loss of loved ones or having to endure poor health, illness or disease .

There are grave concerns over the subject of health in the Middle East. There are major issues that need to be dealt with; these include chronic diseases such as diabetes and obesity. The issues of health in the Middle East could be seen from Patients' rights perspective. Patient rights in healthcare delivery include: the right to privacy, information, life, and quality care, as well as freedom from discrimination, torture, and cruel, inhumane, or degrading treatment. These rights also encompass marginalized groups, such as migrants and persons who have been displaced, racial and ethnic minorities, women, and those living with HIV, are particularly vulnerable to violations of human rights .Therefore, to understand the factors that influence the healthcare systems of the Middle East, patients' rights will be analyzed and compared. The latter part of the document will advise on the solutions and reforms to be adopted by governments, institutions and organizations.

The costs of healthcare are a primary concern of all MENA countries and relevant stakeholders. The high youth population currently in the Middle East has dwarfed the issue of healthcare; nevertheless, it is a long term issue that needs to be invested in. In the not-so-distant future, there will be a demographic shift that would see the increase in elderly population and the consequent ill health. This assumption is backed by statistical analysis produced by the World Bank (2010, Para. 2) which asserts that "Impact of Epidemiological and Demographic Transition - from youth bulge to middle age bulge" is one of the key problems facing the MENA region. The World Bank confirms that the high youth population has kept the costs of health care down, "yet the current cohort of youths shows an increasing prevalence of health risk factors such as obesity, sedentary lifestyles and tobacco smoking. These conditions predispose them to chronic diseases that will manifest symptoms during their middle age years, consequently raising the demand for and cost of healthcare among this group. Another emerging problem is the rapid rise in road accidents as a major cause of deaths and disabilities, especially among the working age population." The lifestyle of the youth will impact on their future health problems and this will need major cooperation by all states to establish a joint campaign to glamorize, advertise and incentivize youths to be fit and healthy .

The World Bank produced a brief on the health issues facing the Middle East in 2010, pointing to "Rising costs and fiscal pressure "as one the key factors that affect healthcare. In the "... middle and high income countries in the region are expected to face a rapid increase in health spending in the medium-term. These are predicted as consequences of the increasing burden of chronic diseases and injuries (whose unit cost of care is higher on average than communicable diseases), the growing role of the private sector, and the rising expectations and demand for quality care from the population. This in turn will increase public pressure on Governments to expand health coverage, at a time when most countries face fiscal constraints due to high unemployment and relatively high tax rates. Additional fiscal space would need to be generated through internal structural reforms, including productivity gains and better social targeting of health subsidies."This suggests that there will be major infrastructural health system costs that will rise to the forefront of crisis in the Middle East. The financial planning and cooperation of Middle Eastern countries in the field of healthcare is therefore a target that should take high and low income states into account.

One of the key factors that affect the Middle East and other LEDCs is fulfilling their duties in funding the healthcare system. In terms of financing, the following topics are of primary concern: "elements of equitable financing; household ability to pay for health care; linking population health needs to health spending; role of the social health insurance system in guaranteeing equity; and identifying best practices to develop and implement a national social health insurance system,". This shows that the finance problems is not limited to the amount of capital spent on the healthcare but also allocation of resources, regulating health industry expenditure and the increasing financial burden on average households. There is a lack of information that lists the financial expenditure in the Middle East on healthcare.

Information on infrastructure (Hospitals, clinics, surgeries etc.), curative care, preventative care, palliative care, public health and the percentage of expenditure individual government's cover per patient is very limited .

The experience of Sudan in health insurance is one of the interventions humanity adopted by states in establishing the extent of national attention the social health of citizens , representing the health insurance system and an aspect of social security , and in light of this perspective , it is the principle of involving the resources of the state with the capacity of community representatives in the institutions and bodies civil to provide health care for all sectors , especially those that are offset by difficulties in providing the minimum of health care required to sustain life and contribute to development. This is what makes all the developing countries and developed implements community-based health insurance system - Social Health Insurance, which takes the base of the distribution of risk as widely as a community to prevail all the citizens of one state , taking advantage of the theory of large numbers , a style adopted by many countries today. In light of the rapid developments in health care services and the accompanying rise in the cost of providing the various segments of society , engineered a government of Sudan Health Insurance Act in 1994 as one of the processors economic solve the problem of treatment after failure of treatment experience economic , and despite the fact that health insurance may be confronted directly in his debut for the lock on the rganized sectors , but actively sought on the same vein for the inclusion of a number of social strata other , often avoiding health insurance schemes such as the World poor families and the families of martyrs , retirees, farmers, herders and students in order to provide a great deal of social justice between segments of society . This trend has motivated many of the supporting institutions for social work programs "such as Zakat "to take advantage of this system to ensure the number of vulnerable segments.

Recommendations:

-The problems in health care in the Middle East, should be resolved parallel with the issues of citizenship, and economic systems, and tax systems and regulatory bodies. The results indicate that the gap in health care expenditures between different governments vary widely in their group.

-There is a need to seize the chance that the health departments of Arab states could evolve regulatory powers to one institution made up of a number of organizations that specialize in specific healthcare specialism and guided by policies of the Arab League. Also, the viability of this idea is further strengthened by evolving more control to established entities; "Council of Arab Health Ministers" and its sub- NGO called "The Arab Board of Health Specializations" which already targets, with limitations, the improvement of health services in the Arab World. The role of these governmental organizations will be limited to the following factors: Public health policies, emergency reliefs, regulation, training, certification, strategic planning, advice, direct negotiations with the private sector, and reporting back to the Council of Arab Ministers. This is only a brief description of their role which could be investigated in more coherent study.

Finally, Maarij Foundation for Peace and Development (MFPD) calls on non-state actors such as NGOs, the WHO or the World Bank to be included in this process of healthcare development. It is essential to take on their trusted advice and work with them to instill a fair and efficient system. The advised institution to be established under the Arab League will deal with non-state actors directly, reducing bureaucracy and increasing efficiency. For example, the World Bank is providing support in the development of strategic plans for national health reforms, as well as specific technical and policy advice on: health insurance regulation; food, drug and medical device regulation; and accreditation and quality improvement systems on-state actors such as NGOs, the WHO or the World Bank need to be included in this process of healthcare development. It is essential to take on their trusted advice and work with them to instill a fair and efficient system. The advised institution to be established under the Arab League will deal with non-state actors directly, reducing bureaucracy and increasing efficiency. For example, the World Bank is providing support in the development of strategic plans for national health reforms, as well as specific technical and policy advice on: health insurance regulation; food, drug and medical device regulation; and accreditation and quality improvement systems.

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*The Global Network for Rights and Development (GNRD), an NGO without consultative status, also shares the views expressed in this statement.

United Nations A/HRC/25/NGO/76

General Assembly

Distr.: General
25 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 10
Technical assistance and capacity-building

Joint written statement* submitted by Femmes Afrique Solidarité, the Women's International League for Peace and Freedom, the World Young Women's Christian Association, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Preventing sexual violence in DRC by addressing its multiple factors

Femmes Africa Solidarité (FAS), Women's International League for Peace and Freedom (WILPF) and World Young Women Christian Association (World YWCA) submit this joint-statement expressing concern that the incidence of sexual and gender based violence, perpetrated in the Democratic Republic of the Congo (DRC), remains alarmingly high. Especially in the eastern part of the country, mass rapes, sexual violence and sexual slavery are used as a weapon of war by the Armed Forces of the DRC and armed groups to intimidate the population and to force it into subjugation. However, civilians are also responsible for these crimes, as stated in the Report of the Panel on Remedies and Reparations for Victims of Sexual Violence in the Democratic Republic of Congo to the High Commissioner for Human Rights (HCHR): *"widespread sexual violence perpetrated with impunity by illegal armed groups as well as national security forces has led to a widely noted increase in sexual violence perpetrated by civilians as a result of war"*.

Despite the existence of institutional, policy and legal frameworks and the efforts of the Government of the DRC, supported by the African Union, the United Nations, the international community and civil society organizations, in particular women's groups, sexual and gender based violence continues to occur in the country causing death, large-scale displacement and distress among the civilian population, particularly amongst women and children, thus representing the main challenge for sustainable peace, security and the development of the country and the region.

In this regard, we welcome the decision of the Human Rights Council to hold, at its twenty-fifth session, a high-level dialogue on the lessons learned and the continuing challenges in combating sexual violence in the DRC and we would like to contribute to this dialogue with Member States by sharing our strong experience in women, peace and security to end violence against women and girls in DRC.

The spreading of sexual violence against women has been so strong that it has raised the concerns of various UN bodies, such as the CEDAW Committee and the HCHR, who convened a special panel of experts in 2010 who conducted a mission in the country with the objective of understanding the issue from the perspective of victims.

As HRC resolution 19/48 points out, *"Apart from strengthening State responses to cases of sexual violence, the root causes must be addressed, notably women's precarious and disadvantaged socio-economic position in Congolese society"*, gender inequality in particular in state decision-making power, economic dependency, political underrepresentation, uncontrolled small arms flow, insecurity and impunity. The dangers of the conflict situation is exacerbated by pre-existing conditions of poverty and illiteracy amongst young women, as well as young women's economic dependence, insecurity, lack of access to community infrastructure and related services. Only by adopting a holistic approach will it be possible to effectively prevent sexual violence. For instance, a socio-economic factor such as the lack of water pumps in villages compels women to walk long distances to bring water home and puts them at a great risk of being attacked. Furthermore, small arms are today widely available not only to armed groups, but also to civilians. According to sexual violence survivors, perpetrators used the threat of weapons to intimidate them.

Sexual violence is today an "effective" tactic of war because of the stigmatisation of raped women. If rape were considered as other kinds of torture and rape survivors were respected by society as survivors of torture are, this tactic would not be as destructive for the community. As affirmed by the Panel of 2010, *"Shifting the stigma from the victims to the perpetrators would have a great impact on the ability of victims to reclaim their dignity and rebuild their lives"*.

An appropriate prevention policy will need to integrate and address all these negative factors at the same time, combat negative gender stereotypes, contribute to women's participation and to their economic empowerment, reduce the uncontrolled flow of small arms, combat stigmatisation and end impunity. In addition, survivors of conflict-related sexual violence also need access to psychosocial services, social support, legal redress and other economic initiatives to strengthen women's agency and ability to take charge of their lives. Finally there's an urgent need to strengthen preventive and early warning mechanisms to protect women's rights during conflict. The multiple factors that contribute to the persistence of sexual violence were acknowledged in HRC Resolution A/HRC/RES/23/7.

Women are often mentioned solely as victims and the important role that women and young women can play in ending impunity for crimes of sexual violence is often ignored. The participation of women and gender experts in conflict resolution, decision taking instances and in all policy elaborations reduces the levels of impunity, in particular for sexual violence, and facilitates access to justice.

In this regard, we appreciate the commitment made by governments of the Great Lakes region during the Bujumbura Conference in July 2013 to support the grassroots women for the implementation of the Regional Action Plan on the implementation of UNSCR 1325 in Burundi, DRC and Rwanda.

However, we would like to highlight the lack of full implementation of United Nations Security Council Resolutions (UNSCR) 1325, 1820, 1888, 1889 and 2016 for peace, security and development in the DRC and the Great Lakes region and we call for the inclusion of women in peace, mediation, negotiation processes.

In the context of the HRC high level dialogue on challenges in combating sexual violence in the DRC, FAS, WILPF and World YWCA would like to express their concern that there were no recommendations specifically on UNSCR 1325, nor on young women's participation in the peace process in the previous UPR review. In conclusion, we recommend that the following UPR (I) and CEDAW (II) recommendations be reconsidered:

I.

- Effectively implement the 2006 law on sexual violence and the "zero tolerance policy"
- Ensure the effective investigation, including allegations of rape being used as a weapon of war, and prosecution of perpetrators of sexual violence, including FARDC soldiers, without exception and without regard to rank
- Strengthen efforts to combat impunity of all forms of violence against women

II.

- Prevent gender-based violence, in particular sexual violence, by State and non-State actors in conflict-affected areas; ensure the protection of civilians, including women, in cooperation with the MONUSCO; conduct gender-sensitive training and adopt codes of conduct for the police and the military, and provide training for psychologists and health professionals;
- Prioritize the fight against impunity for sexual violence in conflict-affected areas; promptly complete effective and independent investigations into the violations of women's rights by the Congolese army (FARDC) and other armed groups, and prosecute the perpetrators of such acts, including those who have command responsibility;
- Establish a human rights based vetting system that will ensure that no perpetrators of human rights violations, including human rights violations of women, will be maintained in the Army and the Police or be integrated in the army, especially during peace negotiations with armed groups;
- Ensure the effective implementation of the National Action Plan for the Implementation of Security Council Resolution 1325; establish a comprehensive national policy to provide adequate reparations to victims of sexual crimes;
- Ensure the effective regulation of the arms trade, control the circulation of illicit small arms; and consider ratifying the 2013 Arms Trade Treaty;
- Significantly enhance the inclusion and representation of women in peace negotiations and also ensure their representation in provincial security committees;
- Ensure effective implementation of Security Council Resolution 2098

United Nations A/HRC/25/NGO/77

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Al-khoei Foundation, a non-governmental organization in general consultative status; World Federation of Khoja Shi'a Ithna-Asheri Muslim Communities, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The rise of religious intolerance and sectarianism

The Al-khoei Foundation is an international charitable organisation, founded in 1989 by the late Shia Muslim spiritual leader Ayatollah Al-khoei, which has had General Consultative Status with ECOSOC since 1998. The Foundation works to promote the freedom of religion, tolerance, respect and justice for religious groups worldwide and actively supports all initiatives that foster peaceful co-operation and friendship between different religious and non-religious groups.

The Foundation works at local, national and international levels for the education and welfare of Muslim communities by running schools, educational and community centres. We also undertake grassroots work such as chaplaincy in hospitals and prisons. We initiate projects which promote the empowerment of women and youth, and undertake international work on development, human rights and research into the protection of sacred sites during times of conflict. We participate in and sponsor many interfaith and intrafaith initiatives which bring communities together and are signatories of international faith declarations such as the Amman Message (2004) and the "A Common Word" initiative (2007). We also work hard to raise standards and promote interfaith dialogue in national forums, such as the Mosques and Imams National Advisory Board in the UK, and have helped spearhead initiatives such as the Iraqi Council for Interfaith Dialogue in Iraq.

The Foundation is deeply alarmed by the rise of religious intolerance and religious sectarianism worldwide. The Foundation unequivocally supports the Universal Declaration of Human Rights and the enshrined principles within the Charter of the United Nations and international law. We are increasingly concerned that faith communities and peoples across the world are being oppressed by severe restrictions, face discrimination on the grounds of their religion and beliefs - running directly counter to Article 18 of the Universal Declaration of Human Rights - and that many are also subject to gross violations of their human rights.

When religious and sectarian tensions proliferate, it is necessary to ask where such hostilities have emerged from. Increased sectarian tensions often emerge in societies where the rule of law has broken down and there is a lack of accountability of governments and authorities. In such situations, governments and political parties may irresponsibly resort to igniting or encouraging sectarian tensions in society for their own benefit. Creating sectarian strife for political gain greatly hampers processes of peace and reconciliation, creating hostile environments for pluralism and mutual coexistence, which multireligious and diverse societies depend upon for stability.

The Foundation is also deeply concerned over the rise of extremist militant groups across the Middle East and wider Islamic world and beyond, particularly Al-Qaeda affiliated networks and others groups such as the Islamic State of Iraq and al-Sham (ISIS). The Foundation has been involved in research into the use of social media platforms and dedicated television channels which spread hate speech, violent ideologies and sectarian incitement. In Libya, an Iraqi professor who confirmed he was a Shia on one such channel was later executed. The research has shown this is an increasingly alarming trend, which is also contributing to the ongoing spillover of the Syrian conflict into Lebanon and Iraq. We are deeply concerned about the worsening sectarian conflict in Syria, the plight of its more than two million refugees and the likelihood of sustained violence and civil war. We call on all parties involved in the conflict to work towards a political settlement and to avoid targeting the places of worship and heritage of different faith communities. We are especially concerned about churches and the Sayeda Zainab shrine in Damascus and possible attacks on this important religious symbol.

In Pakistan, the Hazara Shia community, an ethnic and religious minority, has been the victim of a sharp resurgence in sectarian violence and ethnic cleansing, leading to targeted killings and the deaths of nearly one thousand civilians since 2012. Multiple militant groups have been blamed for the violence, with attacks often increasing in the holy month of Muharram. Doctors and lawyers in Karachi have also been the victims of targeted killings. This is alongside rising religious intolerance against other minority faith groups in Pakistan, such as the Ahmadiyya, Christian, Sufi, Zoroastrian and other religious communities. The Christian community are frequently targeted, especially through their places of worship, such as the Church attack which led to the deaths of almost eighty people in Peshawar in September 2013. We urge the Pakistani authorities to take a leading role in protecting the Hazara and all other minority faith communities in Pakistan and to ensure that targeted violence and human rights abuses aimed at civilians are halted.

Malaysia is a multiracial and multireligious society, yet, despite enshrining freedom of belief and religion in its Constitution, the Al-khoei Foundation has received numerous reports that there is a growing stigmatisation and increasingly harsh sectarian treatment of minority faith communities. Shia Muslims, who are a small minority in the country, have been actively discriminated against since a fatwa was issued on May 5 1996 which labelled Shia Islam as a "deviant" ideology, and has now been implemented in eleven of Malaysia's fourteen states. According to sources, there have been crackdowns against the Shia community since 1997, with Shias facing arbitrary arrest, attacks on private property and the prohibition of publishing and distributing Shia Islamic materials. The rise in religious intolerance which extends beyond the Shia community was also demonstrated by the October 2013 ruling that non-Muslims cannot use the word "Allah" to refer to God, which the Special Rapporteur on Freedom of Religion or Belief spoke out against in November 2013.

The Foundation believes that intolerance towards religious groups contravenes Malaysia's own national laws and many international statements Malaysia has shown support for, including the Amman Message of 2004, the Islamabad Declaration of 2007 and Article 22 of the ASEAN Human Rights Declaration of 2012. These worrying trends and the legalised persecution of minorities, which harm Malaysia's image as a tolerant, fair and open country that respects human rights, should be reversed by the Malaysian government and monitored by the international community.

In Bahrain the long-persecuted Shia community have been victims of a sharp increase in attacks on religious freedom. In response to widespread protests, the authorities have demolished places of worship (although a small number have been rebuilt), sacked Shia workers and students, suppressed religious processions and have now dissolved the country's main Shia organisation, the Islamic Council of Scholars.

In Egypt, a vicious attack against Shia Muslims in June 2013 highlighted a worrying trend of religious intolerance against the small Shia minority at a crucial time in Egypt's political transition. The brutal lynching of four Shia Muslims by a mob of over one thousand people in the village of Abu Musallim in Greater Cairo came after months of denunciatory statements and hate speech from some political and religious leaders. However, we welcome the swift condemnation of this attack by Egypt's Al-Azhar clerics. Shia Muslims in Egypt are increasingly at risk of attacks on their beliefs – as they are frequently deemed to be heretics – and on their personal safety. Campaigns against Shia Muslims are part of wider trends of religious persecution in Egypt, and we condemn the ongoing attacks on Egyptian Coptic Christians and their property, as well as the targeting of other religious minorities. Since the June 2013 military coup, we have also been particularly concerned about the gross human rights abuses that have been meted out by security forces against civilians.

In Myanmar, sectarian violence and ethnic cleansing has continued against the minority Rohingya Muslim community, which the UN has deemed one of the most persecuted populations in the world. Since violence first broke out between Buddhists and the Rohingya community in mid-2012 more than two hundred people (who were overwhelming Rohingya Muslim) are reported to have been killed and over one hundred thousand Rohingya remain displaced. The Rohingya community's lack of recognition by the Burmese government as a "national race", having been stripped of citizenship under the 1982 Citizenship Law, has enabled opponents of the Rohingya to deprive them of basic human rights. The Al-khoei Foundation strongly encourages the Burmese government to re-institute the Rohingya community's status as full citizens, to protect the Rohingya from future violence, to conduct full investigations into violence against minorities- such as an outbreak of violence against the Rohingya in January 2014 that left around forty dead- and to work with religious communities within Myanmar to ameliorate current tensions.

The sectarian violence and human rights crisis in the Central African Republic, which began in December 2012, is a matter of great urgency for the international community. The Al-khoei Foundation condemns all sectarian violence taking place.

Sectarian violence and hatred in Iraq continues to pose serious threats to the country's political stability. The Al-khoei Foundation condemns sectarian violence in Iraq from all parties, in the wake of the bloodiest year and highest losses of human life since 2008, resulting in between seven thousand and eight thousand deaths. We call for all sides to come together in peaceful reconciliation and for faith leaders in particular to take a stand against the ongoing cycle of violence. It is unfortunate that Iraqi government officials, both Shia and Sunni, use sectarianism to mask their own failures in providing basic services to the people.

Iraq's highest Shia authority, Ayatollah Al Sistani, recently released a statement strongly condemning sectarian violence against both Shias and Sunnis. We see a strong need for faith leaders to push for stronger restraint within their own communities when violence, hate speech or sectarian intimidation are carried out by their own followers. Faith leaders worldwide are in a unique position to provide moral and spiritual leadership in times of conflict and of peacebuilding, and to directly help heal divisions in society which are beyond the political realm. We call for faith leaders to be part of the solution, not the problem.

In the United Kingdom we have had good experiences of raising standards within places of worship by having well-produced intrafaith and interfaith guidelines and Codes of Conduct, which have actively contributed to reducing religious tensions. Religious communities can be brought together for common causes, such as issuing statements of solidarity in response to violence and terrorist incidents worldwide. Internationally, the coming-together of Islamic states for the Amman Message (2004) and the Islamabad Declaration (2007) were a show of great unity from the Muslim world, and we would urge for more such unified events to take place in future and for signatories to adhere to the declarations.

Accordingly, there are a number of additional suggestions the Al-khoei Foundation would like to make to the following parties:

To the Special Rapporteur on Freedom of Religion and Belief:

- To continue to speak out for the rights of religious minorities and sects which are victims of ongoing persecution, violence and human rights violations.
- To call for deeper investigation into the situations of the peoples we have highlighted in this statement as experiencing human rights violations as a result of their religion.

To States:

- To protect and to further extend dialogue, respect and tolerance towards their minorities and faith communities.
- To pass legislation criminalising the use of public forums for hate speech.
- To declare all places of worship and sacred sites of each and every faith, denomination and belief as inviolable neutral ground at all times, not to be threatened, damaged or desecrated but to be protected and preserved.
- To call for thorough investigations into reported human rights violations occurring within their country.
- To use religious education to teach and celebrate the variety of the world's religious faiths and not just preach one version of any religion to their entire populations.

United Nations A/HRC/25/NGO/78

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Al-khoei Foundation, a non-governmental organization in general consultative status; the World Federation of Khoja Shi'a Ithna-Asheri Muslim Communities, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

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GE.14-11299
1411299

Please recycle

Protecting the girl child and eradicating female genital mutilation

The Al-khoei Foundation is submitting this statement to appeal to the Special Representative of the Secretary-General on Violence against Children and States to continue to push for greater campaigning and legislation against the harmful practice and human rights violation of Female Genital Mutilation (FGM).

The Al-khoei Foundation is an international charitable organisation, founded in 1989 by the late Shia Muslim spiritual leader Ayatollah Al-khoei, which has had General Consultative Status at the Economic and Social Council since 1998. The Foundation works at local, national and international levels for the education and welfare of the Muslim community, and initiates many project which promote the empowerment of women and youth. We have continued our work with women and young girls with the aim of enlightening and educating them through various seminars and workshops.

The Al-khoei Foundation provides high quality education around the world at its schools for children in London, New York, Montreal and Pakistan, and other educational programmes in the Middle East, Paris and Thailand. Our schools follow the national curriculum and focus on building strong moral and ethical characters in our students, promoting respect for all humanity. Worldwide responsibility is taught through engagement with the poor and disadvantaged in other communities, for example the Al Kawthar Widows and Orphans project in Iraq. The Al-khoei Foundation also recognizes the role of teachers in schools as professionals who may be able to recognize signs of abuse in girls and families and to educate them regarding the existence of violence against women and prevention.

We believe that Female Genital Mutilation, in all its forms, is a grave violation of the rights of girls and women and represents a gross act of violence to the young girls on which Female Genital Mutilation is practised- most often between infancy and the age of fifteen. The Al-khoei Foundation believes that Female Genital Mutilation is child abuse and a violation of the child's right to life, their right to mental and physical integrity, as well as their right to health. An estimated 125 million women worldwide are thought to have been the victims of FGM in the 29 countries in the Middle East and Africa where it is most concentrated. The European Parliament estimates that more than half a million girls living in Europe have been subjected to FGM, who will most frequently return to their countries of origin during school holidays where they are confronted with the pressure to undergo the practice.

Female Genital Mutilation can have serious consequences for a woman's health and in extreme cases can even lead to death. FGM includes procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons and the procedure has no health benefit for women and girls, which interferes with the natural functions of girl's and women's bodies. The right to the highest attainable standard of health is a fundamental right of all children, yet this is stripped away from young girls by the many lifelong health complications that they experience as a result of this practice. The Al-khoei Foundation is increasingly concerned about the medicalization of the practice of FGM, with around 18% of cases now being carried out by health care providers, and calls for more research to be done in this field so that medicalization and a new standard of normalization of the practice can be eradicated.

The Al-khoei Foundation would like to unequivocally state that FGM is not a religious requirement and has no place in Islam. Causing harm and distress is not condoned by our faith, yet it is still sadly practiced in some communities who claim it to be under the remit of their culture or religion. It is an unfortunate reality that falsehoods attributed to the Islamic tradition continue to be used as a pretext for the suppression of women in the contemporary world. The Al-khoei Foundation promotes the prescription of women and children's rights to live safe from harm and with opportunities for personal development and autonomy. We believe that FGM reflect deep-rooted inequality between men and women, and constitutes an extreme form of discrimination against women and girls. The status of women is affected by their rights in society, and we believe that eradicating this form of violence against children will have unmitigated benefits for the societies which currently practice FGM.

We echo the sentiments of the United Nations Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, who told the UN General Assembly in 2013 that "harmful practices inflicted on women or girls can never be justified in

the name of religion," and his condemnation that "[c]ountless women are exposed to complex forms of human rights violations based on both religion or belief and their sex."

The Al-khoei Foundation is undertaking steps within the United Kingdom to work on the issue of FGM on an intrafaith and interfaith level, by becoming a signatory to an FGM Declaration for religious groups which condemns the practice of FGM and states firmly that FGM is not a religious or religiously-condoned practice. Research has shown that if practicing communities themselves decide to abandon FGM, the practice can be eliminated very rapidly. The Al-khoei Foundation wants to be part of the solution to this ongoing children's rights crisis, and urges leaders from all faiths to speak out against this extreme practice and contribute to the reduction in violence against children.

Accordingly, we would like to make a number of suggestions to the following parties:

Faith Leaders

- We call upon faith leaders to speak out against FGM within their faith communities and ensure that their followers know that FGM is not condoned as a religious practice.
- To work together with other faith communities to create unified statements, campaigns and raise awareness in ways which promote the eradication of this practice.
- To remove any linkages between this horrific practice and justifications that are made using faith and/or culture.

States

- We call upon States to outlaw FGM as a practice if this has not already been done.
- If FGM has already been outlawed, to prosecute offenders and to find ways to prevent girls being subjected to the practice when visiting their country of origin.
- To continue to work internationally with other States and NGOs to tackle the ongoing practice and thinking behind FGM.

United Nations A/HRC/25/NGO/79

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11308
1411308

Please recycle

The human rights situation in Colombia

Amnesty International reiterates its support for the work of the UN Office of the High Commissioner for Human Rights in Colombia to improve respect for human rights in the country, including through insistence on the full implementation of repeated UN recommendations. The Office's monitoring role has been particularly important in alleviating human suffering in the long-running armed conflict.

The Office's role in providing international scrutiny will become even more critical given the uncertain human rights consequences of any peace agreement, or the failure to reach an agreement, between the government and the Revolutionary Armed Forces of Colombia (FARC). Amnesty International therefore encourages the government to renew the Office's integral mandate for at least a three-year period.

This statement presents an overview of Amnesty International's concerns in Colombia and recommendations to the Human Rights Council.

The ongoing peace negotiations in Havana, Cuba, offer the best chance in over a decade to put an end to hostilities, and with it the abuses and violations of human rights and international humanitarian law (IHL) that have marked the 50-year-old conflict.

However, the government's promotion of legislation that will only serve to boost impunity and the failure of the warring parties to end violations and abuses against civilians, raises question marks about their commitment to human rights and calls into question the long-term viability of any peace agreement.

Communities at risk

Indigenous, Afro-descendent and peasant farmer communities and human rights defenders still bear the brunt of the conflict. All the warring parties – the security forces, either alone or in collusion with paramilitary groups, and the guerrilla – are responsible for abuses and violations of human rights and IHL, including killings of protected persons, enforced disappearances or abductions, torture, forced displacement and crimes of sexual violence.

More than 5 million people have been forcibly displaced during the course of the conflict. According to the latest figures available from the NGO Codhes, more than 250,000 civilians were forced to flee their homes in 2012.

Indigenous communities continue to be hard hit. According to the National Indigenous Organization of Colombia (ONIC), 23 indigenous persons were killed in the first half of 2013.

There has also been concern about the authorities' failure to stem the growing tide of violence against Afro-descendent communities in Buenaventura, Valle del Cauca Department.

The security forces

There have been continued reports of extrajudicial executions. The numbers are far lower than the thousands recorded during Álvaro Uribe's presidency. However, scant progress has been made in investigating these killings. Some cases are still being transferred to the military justice system, which has an appalling record in holding to account members of the security forces implicated in human rights violations.

Concerns were raised about excessive and disproportionate use of force by the security forces during protests in 2013, including during Indigenous protests in October, the national peasant farmer strike in August and the peasant farmer demonstrations in Catatumbo in June. Senior government and state officials alleged that guerrilla groups had orchestrated the demonstrations, placing protestors at risk of revenge attacks by paramilitaries.

Paramilitaries

Paramilitaries continue to operate despite their supposed demobilization in a government-sponsored process that began in 2005. The government offered reduced prison sentences to thousands of paramilitaries under investigation for human rights violations who laid down their weapons. However, only 22 paramilitaries who surrendered their arms under the 2005 Justice and Peace Law have been convicted of human rights violations. Hundreds of paramilitaries on remand could be freed from prison later this year without having gone to trial, after having spent the maximum eight years in prison stipulated by the law.

There are no effective measures in place to ensure that those released do not again incorporate themselves into paramilitary structures, which continue to commit human rights violations against vulnerable groups and communities.

Guerrilla groups

Guerrilla groups are responsible for human rights abuses and violations of IHL, including killings of protected persons, hostage-taking, use of landmines, recruitment of children, and forced displacement. The FARC are also responsible for indiscriminate attacks, some using explosive devices in urban areas, which injured and killed civilians.

Human rights defenders

According to the NGO Somos Defensores, some 70 human rights defenders, including community, indigenous and afro-descendant leaders, were killed in 2013. The National Trade Union School (ENS) reported that 27 members of trade unions were killed. Land activists and those working on impunity have been particularly vulnerable to attacks.

These attacks, as well as the misuse of the legal system to bring sometimes bogus charges against human rights defenders and the theft of sensitive information from NGO offices, continue to undermine the work of human rights organizations.

Although the state's protection programmes provide security to thousands of individuals at risk, including human rights defenders, these programmes continue to suffer from serious weaknesses. Their effectiveness will continue to be limited as long as the perpetrators of human rights violations and abuses remain confident that they will not be brought to justice.

Land restitution

The 2011 Victims and Land Restitution Law aims to provide reparation to some victims of the conflict and return to their owners some of the millions of hectares of land misappropriated from them, often violently, by the parties to the conflict.

This law could make a positive impact on victims' lives. However, it is hampered by serious shortcomings, notably the authorities' failure to guarantee the safety of land claimants and to ensure that any return is economically sustainable. Hundreds of land claimants and their representatives have been threatened and dozens killed since the law came into effect.

According to the state's National Protection Unit (UNP), around 1,000 land claimants and leaders have requested protection, although only half of these requests have been granted. According to the Office of the Attorney General more than 30 land claimants and leaders were killed between 2010 and mid-2013, although the true figure is likely to be higher.

Impunity

Recent legislation risks further undermining the little progress made by ordinary civilian courts in ending impunity in cases of human rights violations and abuses.

In June 2013, Congress approved a reform of the military justice system, which would have further shielded members of the security forces allegedly implicated in human rights violations. Although the Constitutional Court threw out the reform on procedural grounds in October 2013, the government is likely to reintroduce it later this year.

The Legal Framework for Peace, which came into force in 2012, gives the Congress the authority to limit prosecutions only to those "most responsible" for human rights violations and abuses and to suspend prison sentences for all paramilitary, guerrilla and security force members convicted of such crimes. In August 2013, the Constitutional Court upheld the constitutionality of the law but ruled that the sentences of those "most responsible" could not be completely suspended if they were responsible for crimes against humanity, genocide or war crimes carried out in a systematic manner. However, there is no clear criteria as to who are the "most responsible" nor have many of the "most responsible" been identified. The legislation will, as such, undermine the right of victims to truth, justice and reparation.

Violence against women

All the parties to the conflict continue to be responsible for crimes of gender-based violence. Although laws, resolutions, decrees and protocols exist to combat sexual violence these are rarely effectively implemented. In 2008, the Constitutional Court issued Judicial Ruling 092 of 2008 (Auto 092). It called on the state to combat conflict-related sexual violence and the impunity that marks such crimes. However, reports published in 2013 by the Constitutional Court and the NGO Follow-Up Group on Auto 092 of 2008 (Grupo de Seguimiento al Auto 092 de 2008) concluded that implementation of Auto 092 remained poor. Most of those suspected of criminal responsibility have yet to be identified, let alone investigated.

Women human rights defenders, including those working on sexual violence and impunity, continue to be threatened and killed.

Role of the international community

The peace process offers the international community an important opportunity to emphasise to the government that the right of victims to truth, justice and reparation is an essential and non-negotiable prerequisite for an effective and long-lasting peace in Colombia.

Amnesty International therefore urges the members and observers of the Human Rights Council to:

- acknowledge that the human rights situation in the country remains critical, especially for Indigenous Peoples, Afro-descendent and peasant farmer communities, land claimants, and human rights defenders, community leaders and trade unionists;
- call on the Colombian government and guerrilla groups to take verifiable measures to put an immediate end to abuses and violations of human rights and IHL;
- insist on the full and immediate compliance by all parties of the recommendations of the UN High Commissioner for Human Rights, and of other UN bodies, and the need to continue with the presence and work of the Office of the UNHCHR in Colombia;
- urge the Colombian authorities to desist from measures, such as the reform of the military justice system, which will boost already high levels of impunity; and
- urge the government and the FARC to acknowledge that respect for human rights and an end to impunity must be a central component of the peace talks.

United Nations A/HRC/25/NGO/80

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

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[17 February 2014]

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GE.14-11310
1411310

Please recycle

Mexico: Torture unchecked

In 1994 the Federal law to prevent and punish torture was passed and since then all but one of Mexico's 31 states and the Federal District have either established a separate law or incorporated into their criminal codes the offence of torture. Guerrero state, the last to do so, is awaiting approval of a bill to criminalize torture. However, most of the state level legislation falls well short of the international standards. In 2008, constitutional reforms set in motion judicial reforms intended to strengthen due process guarantees of victims and accused, including increased judicial scrutiny of detention and evidence. These reforms must be introduced by 2016, but so far only a handful of states have complied. A bill to establish a single criminal procedural code for all state and federal criminal jurisdictions was approved by Congress in early 2014. In 2011, Constitutional human rights reforms recognised the constitutional status of human rights treaties, providing for their direct application as well as remedy through *amparo* procedures.

In this statement, Amnesty International sets out its principal concerns in relation to torture and other ill-treatment in Mexico and includes recommendations to the Human Rights Council

Torture and other ill-treatment continue to be used routinely by a wide range of police and security forces to gather information, support charges against criminal suspects and during public order disturbances. The extensive legal and administrative measures established to prevent and punish torture are largely ineffective or not applied. The situation has deteriorated significantly in recent years as police and security forces have regularly resorted to torture or other ill-treatment as part of measures to counter organized crime. There were 7,164 complaints of torture and other ill-treatment registered with the National Human Rights Commission (CNDH) between 2010 and 2013, but the federal judiciary has recorded only 7 convictions for torture. Complaints of torture and other ill-treatment are rarely investigated adequately. As a result, perpetrators are not held to account and statements obtained under torture continue to be accepted as evidence in judicial proceedings.

Rather than uphold evidential standards in line with international human rights law in order to deter the use of torture and other ill-treatment, the criminal justice system often depends on information obtained via coercion to mount prosecutions and detain criminal suspects. The absence of well-founded and solid police investigations to support charges, frequently means judges ignore evidence of torture and other ill-treatment in order uphold the legality of detentions and avoid being accused of being soft on crime. Criminal suspects face almost insurmountable obstacles to demonstrating their complaints, as judicial officials are predisposed to view allegations as a baseless defensive strategy to avoid prosecution. In effect, to make a complaint of torture or other ill-treatment is likely to be taken as confirmation of guilt of the criminal suspect.

Most criminal suspects, particularly the poorest are forced to accept public defenders when making their first crucial statement to the public prosecutor, usually in the presence of police who may have been responsible for their torture or other ill-treatment. Amnesty International has interviewed many victims of torture and other ill-treatment who have alleged that they were not allowed access to a lawyer until signing their statement, and that they were forced to accept the representation of public defenders for their first statement to the prosecutor. Such lawyers often reportedly ignored evidence of torture or other ill-treatment or in some cases encouraged detainees to sign statements in order to avoid further torture or other ill-treatment.

The first statement rendered to the public prosecutor continues to be granted greater evidential value than the statement subsequently rendered to the judge in the presence of a lawyer, whereby the first statement is held to be truer by virtue of being close temporally to the events and the accused has not had time to consult with his or her lawyer. The UN Committee Against Torture and the Inter-American Commission of Human Rights have called for this legal principle to be reformed in line with due process and human rights standards[1].

[1] Committee against torture, report on Mexico (can't find correct ref, paragraph 15), OPCAT, CAT/OP/MEX/1, para 144, Inter American Commission of Human Rights, INFORME N° 2/99, CASO 11.509, MANUEL MANRÍQUEZ

Preventive pre-charge detention, *arraigo*, continues to be widely used to hold suspects in the custody of prosecutors pending investigations despite repeated recommendations by UN human rights mechanisms for it to be abolished.

Medical examinations

When a suspect is detained and placed at the disposition of the public prosecutor or arraigned into prison, he or she will be subject to a cursory medical examination, frequently in the presence of those who may have been responsible for torture or other ill-treatment. The medical professionals who conduct these examinations are employees of the public prosecutor's office or the prison system. Many detainees report that they are not examined or questioned about any injuries they may present. These medical reports frequently contain no detail except a confirmation that the detainee did not present physical injuries. No photographic evidence is taken. These medical procedures are not consistent with the Istanbul Protocol.

In 2002 the Federal Attorney General's Office (Procuraduria General de la República, PGR) adopted special medical examination procedures to assess possible torture cases based on the Istanbul Protocol. However, these medical examinations which often take place many years after the alleged torture are rarely applied and frequently fail to detect evidence of torture. If this procedure fails to confirm evidence of torture, prosecutors and judges take this as evidence that the complaint of torture is false. The Subcommittee for the Prevention Torture expressed concerns at the failings of this procedure in 2010.

This official medical examination also plays a key role in judicial proceedings. Under Mexico's present legal system, the evidence provided by official experts working for the public prosecutor's office are granted greater official evidential status, whilst an examination by independent medical expert, including when carried out by the CNDH or one of the 32 state level human rights commissions, only have the status of public documents, which a judge may disregard in favor of official evidence. In these circumstances, it is extremely difficult to challenge official medical findings or sustain independent evidence of torture or other ill-treatment in judicial proceedings. As a result, judges are more inclined to rule statements admissible even where there is independent evidence of torture or other ill-treatment.

Amnesty International calls upon the members and observer states of the Human Rights Council to urge Mexico to:

- review the official medical examination procedures of the Federal Attorney General's Office in cases of possible to torture or other ill-treatment to ensure they are consistent with the Istanbul Protocol and form part of a prompt, impartial and exhaustive investigation of complaints of torture and other ill-treatment;

- ensure that initial medical examination of detainees applies the standards of the Istanbul Protocol to fully document the physical and psychological condition of the detainee in an environment where all evidence can be adequately recorded, including through use of photographic evidence. These and all other medical reports should be available to detainees and their legal representative from the earliest possible moment;

- separate the medical forensic services from offices of judicial police and prosecutors to ensure their operational independence;

- ensure that independent medical experts are allowed access to detainees at the earliest moment and that their evidence is granted evidential value in court proceedings on the basis of the quality of the expert evidence, not its official status;

- ensure detainees have access to legal defence, including private lawyers, from the moment of detention and are able to report complaints of ill-treatment at the earliest moment;

MÉXICO 23 de febrero de 1999, para 77

- abolish *arraigo* and ensure accurate recording of detention location, time, participants etcetera, which should be made available to defence lawyers from the earliest moment; and

- ensure that all complaints of torture and other ill-treatment result in a full investigation and that police, prosecutors or judges who fail to record evidence of torture or other ill-treatment face investigation and if necessary sanction.

United Nations A/HRC/25/NGO/81

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11391

1411391

Please recycle

Nigeria: Torture, cruel inhuman and degrading treatment of detainees by Nigerian security forces

Background

Amnesty International's ongoing research since 2008 indicates that the police and the military routinely use torture and other forms of ill-treatment as means of extracting information from suspects and also to break the spirit of the suspects or detainees. Moreover, the information or "confessions" extracted from detainees is in many cases, used in court as evidence. This is contrary to national and international law. The scale of the use of torture and other ill-treatment is increasingly alarming.

Amnesty International delegations have visited police stations throughout Nigeria between 2008 and 2013. The delegations have collected scores of allegations of torture and other cruel, inhuman and degrading treatment received in police detention centres. Based on these confessions, many suspects of armed robbery or murder are remanded to prison to await trial, even if the police are eventually unable to produce sufficient evidence to prosecute the suspect. Inmates claimed to have reported their allegations to either a magistrate or to the prison authorities after they were transferred to prisons. Where torture is suspected, a judge should open a "trial within trial" for proof of duress.

Operations by Nigerian security forces against the Islamists armed group Boko Haram in northern Nigeria have led to an increased use of various forms of torture or other ill-treatment against detainees. Thousands of people accused of having links to Boko Haram have been detained by the Joint Task Force (JTF), military, police and the Department of State Security Services (SSS). In 2013 alone, over 1,000 people were arrested and detained at Giwa military barracks in Maiduguri Borno state, Sector Alpha (a.k.a Guantanamo) in Damaturu, Yobe state as well as the Special Anti-Robbery Squad (SARS) detention centre of the police in Abuja (commonly known as "the abattoir"). The majority of detainees have never been brought to court and most often do not have access to their lawyers and/or families. Few court orders for the release of detainees are respected by the police and the military.

The UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment and punishment said already in 2007 that: "torture and ill-treatment are widespread in police custody, and particularly systematic in CIDs (Criminal Investigations Departments). Torture is an intrinsic part of how the police operate within the country." Little has changed.

Despite several calls by Amnesty International and other national and international organisations urging the Nigerian authorities to criminalise torture and other ill-treatment, no significant action seems to have been taken.

Forms of torture in Nigeria

"They (the army) carry out all sorts of torture means available to them. They hang people, at times, till they die. They use rifle butts and sticks to beat people, they also shoot people on their legs and leave them to bleed. They tie their hands to their back with rope. They call the system "tabay". Some or many are unable to use their hands after they're released. Some people die even after they have been released," said an official in the Nigerian army who spoke to Amnesty International on condition of anonymity.

Amnesty International has interviewed hundreds of former detainees from police and military custody who provided descriptions of the various forms of torture and other ill-treatment used by military or police officers. The main forms of physical torture or other ill-treatment include, but are not limited to the following:

- **Severe beating with gun butts, batons and machetes (or flagellation)** – nearly all former detainees from police and military custody have told Amnesty International that they have been whipped or beaten by the officers with either a gun butt, a machete or a baton.

- **Hanging suspects upside down to a ceiling fan**- another common form of torture in Nigeria is to tie suspects' feet on a ceiling fan with their heads hanging downward. Many former detainees, especially from police custody, described how they were tied and hanged upside down for several hours, without water or food.

- **'Tabay'** - Amnesty International has interviewed former detainees and serving members of the Nigerian military and police who said 'tabay' is one of the many ways in which suspects are ill-treated or tortured in detention. This is a form of torture in which the suspects' elbows are tied behind their backs and the detainee is either hanged on a makeshift stick or made to sit in an awkward position on the ground.

- **Tooth extraction** -the Nigerian police force is known to use this method of torture on suspects and detainees to extract information. It involves the forceful removal of a tooth from the mouth of a detainee or suspect.

- **Starvation** this is increasingly becoming another common form of torture and ill-treatment in Nigeria. Many former detainees in military and police custody have told Amnesty International that they were not given enough food while in detention. Some detainees complained that they were only fed once a day with sub-standard food placed on their palms.

- **Rape** - Amnesty International has received consistent reports that women have been raped or sexually abused by the police in the street, while being transferred to police stations, while in police custody, or when visiting male detainees. Rape and other forms of sexual violence, or the threat of such violence, is among various methods of torture and ill-treatment used by the police to extract confessions or other information. Methods include insertion of foreign objects, such as bottles, into the woman's vagina.

- **Shooting in the leg/foot/hand**: Amnesty International has interviewed scores of inmates and former detainees who said they have been shot in either the leg or foot or in some cases their hand by the police during interrogations. Many said they are often left to bleed for hours with no immediate medical care or treatment. This form of torture by the police and other security forces is widespread in Nigeria.

Former detainees have described to Amnesty International other forms of ill-treatment in Nigerian military or police detention facilities that may constitute psychological torture. These include mock executions, witnessing the execution of fellow inmates, or being forced to witness a ghastly act. In one case, a former detainee told Amnesty International that he and other persons detained at the "abattoir" were forced to witness a female detainee delivering a baby in an opposite cell. According to the former detainee, the baby died shortly after birth. No medical care or treatment was provided for the mother or child.

Amnesty International calls upon the Human Rights Council and its members and observer states at the 25th session to urge Nigeria to:

- issue an invitation to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Nigeria; and to urge the Nigerian authorities to respond positively to the requests made by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;

- urge Nigeria to submit, without further delay, its initial report to the UN Committee against Torture;

- urge Nigeria to develop and implement all necessary measures to put an end to the violations of human rights by security forces, including torture, recommendations Nigeria supported at the 17th Session of the Universal Periodic Review (UPR) -134.68 to 134.72. Amnesty International considers of particular importance, the need to investigate acts of torture and other ill-treatment by security forces to ensure that perpetrators are promptly brought to justice in a fair trial without recourse to the death penalty; and
- urge Nigeria to improve living conditions in detention facilities, to strengthen the system of independent monitoring in all detention facilities in accordance with the Optional Protocol to the Convention against Torture and to establish a human rights monitoring system which allows access to detention centres in

Northern Nigeria as recommended by member states and accepted by Nigeria at the 17th session of the UPR (134.106, 134.108, 134.112).

Amnesty International urges the government of Nigeria to:

1. put an immediate end to the use of torture and all other forms of ill-treatment of suspects and detainees in military and police custody in Nigeria;
2. grant detainees in military and police custody immediate and unhindered access to families, lawyers, human rights defenders and monitors;
3. grant access to legal and practical remedies for victims of torture and other ill-treatment in military and police custody;
4. institute a thorough, independent and impartial investigation into allegations of torture and other ill-treatment by police and military personnel, especially in relation to Boko Haram and armed robbery suspects across the country;
5. grant the National Human Rights Commission (NHRC) monitors and human rights defenders unhindered access to all detention facilities across Nigeria, including military detention centres in northern Nigeria; and
6. criminalise the use of torture and other ill-treatment on suspects and detainees in police and military detention by passing into law the torture bill (Act penalizing the commission of acts of torture and other cruel, inhuman and degrading treatment or punishments, prescribing penalties thereof and for other purposes).

United Nations A/HRC/25/NGO/82

General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11395

1411395

Please recycle

Philippines must effectively implement its legislation on torture and other ill-treatment

Impunity for torture and other ill-treatment remains a critical human rights problem in the Philippines. Despite pronouncements by the government to address this issue, justice continues to be out of reach for victims, and no perpetrator has been fully held to account.

The Philippine government has acknowledged the problem. In its state report to the Human Rights Council during the second cycle Universal Periodic Review, Philippine authorities highlighted efforts to establish a National Monitoring Mechanism "that will bring together Government agencies, civil society organizations and the Commission on Human Rights in a credible and inclusive forum for monitoring the nation's progress in resolving... torture, thereby ending impunity."[1] Two years after, there has been little progress on the National Monitoring Mechanism. Further, monitoring is only one component of enhancing accountability and does not fully address the problem of impunity.

Torture in the Philippines

Torture is prohibited in the Philippines. The Constitution prohibits the use of torture and other ill-treatment and the Revised Penal Code criminalizes all acts of torture with corresponding penalties. The Philippines ratified the UN Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1986, and its Optional Protocol in 2012, albeit with a declaration postponing visits by the Subcommittee on Prevention for three years. The Philippines enacted the Anti-Torture Act in 2009 which prescribes criminal penalties, including life imprisonment, for torture and other ill-treatment. However, torture is rife and in many cases routinely used in the Philippines. Despite the introduction of legislative safeguards, state security forces and law enforcement officers continue to practice or be complicit in torture.

The January 2014 discovery of a secret detention facility where police officers physically abused detainees for "fun" demonstrates a law enforcement culture in which some police officers casually commit routine torture with impunity. Police officers spun a wheel to decide torture positions or acts of torture to inflict on detainees.

The Commission on Human Rights (CHR) in the Philippines exposed this unrecorded Philippine National Police (PNP) detention facility located in a residential neighbourhood in Laguna province. Over 40 detainees, some of whom still had bruises and other torture marks on their body when CHR representatives came, accused at least 10 police officers of torture, ill-treatment and extortion. The detainees also complained that 'drinking sprees' by the police officers led to further incidents of torture and other ill-treatment in the detention facility. The CHR reported that the detention cell within the police facility was not in the PNP's legally-required updated list of all its detention facilities, in violation of Section 7 of the Philippines' Anti-Torture Act of 2009.

This incident belies earlier declarations made by the Philippine government in its 2012 state report in the Universal Periodic Review that it has put in place "[i]nstitutional measures... to prevent torture and other human rights violations... inspection of police stations with custodial facilities... [and] the institutionalization of salient features of the Anti-Torture Act, including the principles of command responsibility, prohibition of places where torture may be done with impunity... and inadmissibility of evidence obtained through torture."[2]

The PNP has since stated that the police officers implicated in the complaint were undergoing internal investigations and could face dismissal from service. Two other police officers with command responsibility over the 10 were relieved of their duty. While recognizing the investigation effort of police, Amnesty International maintains that internal disciplinary proceedings against police officers accused of criminal offences which involve human rights violations such as torture is not enough. Administrative sanctions are not sufficient to punish acts which are criminal under

[1] Human Rights Council. A/HRC/WG.6/13/PHL/1. Paragraph 49.
[2] Ibid. Paragraph 56.

Philippine law, and which constitute crimes under international law. Perpetrators of torture must be held accountable in a court of law. In all its statements, the PNP failed to mention prosecution of police officers, despite its Internal Affairs Service being legally-mandated to file criminal charges against erring officers.[3] By prosecuting offending police officers, the PNP will send a clear signal that it does not tolerate torture. Crucially, it will demonstrate that the PNP regards its ranks as not above the law and will not hesitate to hold accountable erring police officers to the fullest extent of the law. It is also the duty of the Philippines authorities to ensure that victims of human rights violations have access to remedy under the International Covenant on Civil and Political Rights to which the Philippines is a state party. It includes ensuring that victims and their families have access to justice, truth and reparations about what happened to them,

The Laguna torture for "fun" case led to immediate action by the PNP largely because of high media coverage. However, most instances of torture and other ill-treatment in the Philippines are unreported.

Amnesty International's research has found that many victims of torture and other ill-treatment are common criminal suspects and repeat offenders, including juvenile offenders. So-called police 'assets' – informal police auxiliaries handpicked by police officers for covert operations in exchange for a fee – who fall out of the police's favours are also known to have been arrested, tortured and sometimes extrajudicially executed by police officers in what has been known in the Philippines as 'salvage operations'.

Women, including female police 'assets' and workers in the sex industry are also at risk of human rights violations, including torture and other ill-treatment.

Ordinary people and political activists suspected of sympathizing with the Moro Islamic Liberation Front or the New Peoples' Army are similarly at risk of torture. This is exacerbated by the participation of police officers in military's counterinsurgency and counterterrorism operations. Executive Order 546 (2006) has led to this practice, blurring the line between military and law enforcement functions.

Torture victims - most of whom come from disadvantaged backgrounds - are reluctant to come forward and file a complaint due to fear of reprisals and lack of confidence that torture perpetrators will be brought to justice.

Many torture victims interviewed by Amnesty International are still in government custody in jails or prisons. They fear that despite safeguards on paper, police or military who are responsible for the serious human rights violations which happened to them would still be able to access them. In one case, Amnesty International learned of a high ranking military officer gaining access into a prison and beating up a detainee.

Worse than the fear for their own safety, survivors of torture fear reprisals against members of their family if they speak out about what happened to them or if they make a complaint, as the identity of their loved ones may become known to their perpetrators during jail visits or court hearings.

Compounding the situation is the lack of knowledge on the part of the victims as to where to go to seek justice and accountability for the torture they have experienced in the hands of the state. In the majority of cases that Amnesty International researched, victims did not know where to lodge their complaint. It does not help that most of the accountability mechanisms in place have overlapping jurisdictions, causing confusion.

Impunity for torture

While there have been sanctions against some perpetrators of torture in high profile cases, no one has been convicted for torture, five years after the Anti-Torture Act was enacted.

[3] Republic Act No. 8551, sec. 39(e).

The efficiency, effectiveness and integrity of investigations continue to be in question. The situation of the criminal justice system in the Philippines is such that often criminal cases, including those which involving human rights violations, do not go beyond the preliminary investigation stage. Moreover, the lack of forensics capacity and dependency on testimonial evidence has led to the use of torture as part of 'standard' investigations'. Prosecutions proceed slowly, and courts are beset with several years' worth of case backlog.

The Philippine government was due to submit its third periodic report to the Committee Against Torture in May 2013, but it has not yet done so. In its Concluding Observations on the Philippines in 2009, the Committee against Torture expressed its "deep concern" about the widespread use of torture and "that credible allegations of torture and/or ill-treatment committed by law enforcement and military services personnel are seldom investigated and prosecuted and that perpetrators are either rarely convicted or sentenced to lenient penalties that are not in accordance with the grave nature of their crimes."[4] The Committee stated that there was a "climate of impunity for perpetrators of acts of torture."[5]

Amnesty International urges the members and observers of the Human Rights Council to:

- Acknowledge the serious problem of impunity for torture and other ill-treatment of ordinary criminal suspects and other detainees in the Philippines ;
- Call upon the Philippine government to promptly submit its report to the Committee Against Torture;
- Call upon the Philippines to issue an invitation to the Special Rapporteur on Torture to independently verify the gains and gaps in law and practice with regard to torture and other ill-treatment in the Philippines;
- Call upon the Philippine government to withdraw its reservations from the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment;
- Call for the full implementation of accepted Universal Periodic Review recommendations and commitments and provide an interim report to the Council on such implementation, particularly on torture;
- Call upon the Philippine authorities to ensure prompt, thorough and effective investigations into all reports of torture and other ill-treatment by law enforcement agents, ensuring that suspected perpetrators, including persons with command responsibility, are prosecuted in proceedings which meet international standards of fairness, and that victims are provided full reparations;
- Call upon the Philippine authorities to ensure that a clear, independent and impartial system is in place to address complaints about suspected human rights violations by police officers. In particular, suspected criminal offences involving human rights violations must be dealt with through the criminal justice system.

[4] CAT/C/PHL/CO/2, paragraph 9.
[5] Ibid.

United Nations A/HRC/25/NGO/83

General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the People's Solidarity for Participatory Democracy, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Human Rights in the Democratic People's Republic of Korea*

We, civil society organisations in the Republic of Korea (ROK or South Korea), share the concerns of the international community on the poor human rights situation in the Democratic People's Republic of Korea (DPRK or North Korea). North Korean human rights issues are closely related to the division of Korean people on the Korean Peninsula and the military tension in Northeast Asia. We, therefore, believe that efforts to enhance the human right situation in the DPRK should rely upon a comprehensive and effective approach, which requires sound criticism on and cooperation with the government of the DPRK.

North Korean human rights issues should not be limited to the situation inside the DPRK. They cover human rights concerns of all North Korean people, their separated families, and relatives, regardless of their place of residence. They consist of three parts: 1) human rights of people who are living in the DPRK, 2) human rights of DPRK defectors in the ROK or a third county, 3) human rights and humanitarian concerns for people such as prisoners of war, separated families and abductees.

Militarism and under-development that are the main causes of human rights violations in the DPRK are caused by the political and economic systems of the country. At the same time, armistice systems that have been in place for more than 60 years, along with the U.S. sanctions imposed on the DPRK since its establishment also affected human rights violations within the DPRK. North Korean human rights issues should not be limited to the human rights violation inside the country only, but should be understood as human rights across the Korean Peninsula. Therefore, blaming the government of the DPRK as the only perpetrator of human rights violations in the county is a narrow approach and raises concerns on politicising public discourses on North Korean human rights.

It would not be effective in protecting human rights of North Korean people without getting cooperation from the government of the DPRK. The UN human rights mechanisms have been urging the government of the DPRK to enhance human rights of its own people and calling for attention and participation of the international community to improve the situation. Unfortunately, in response to these concerns, the government of the DPRK has refused to work together with the majority of the international community but have cooperated selectively with some UN human rights mechanisms and a few governments. This is also due to the UN Command confronting the DPRK along with many countries and organizations, including the UN Security Council are imposing sanctions against the DPRK. We urge both the international community and the government of the DPRK to put their full efforts to build constructive and cooperative relationships with each other through the normalization of human rights dialogues and technical cooperation. At the same time, the consequences of the current sanctions on the human rights situation in the DPRK should be fully examined.

We believe that pressuring and isolating the DPRK from the international community will not bring positive results in improving its human rights. Therefore, building trust with the DPRK is required to make positive changes in the North Korean human rights situation. In this regard, North Korean Human Rights Act of 2004 by the U.S., Act on Handling of Abduction Issues and Other Human Right Issues Related to North Korean Authorities of 2006 by Japan and North Korean Human Rights Act which is being discussed by the National Assembly of the ROK would not be effective in enhancing human rights situation in the DPRK. Since the ROK and the DPRK established different political and economic systems, both governments have been confronting each other ideologically and militarily. This situation put the ROK in enhanced difficulty where it should actively work on improving human rights in the DPRK while ensuring that human rights concerns are not raised as a means to impose political pressure to the government.

We propose the following three ways to improve the human rights situation in the DPRK.

First, the international community should continue to monitor the human rights situation in the DPRK and suggest solutions for the improvement of human rights in the DPRK while supporting its human rights infrastructure and encouraging its efforts to advance human rights of its own people. We should remember that in the past, political and

military intervention by the international community under the cause of the promotion and/or protection of human rights often ends in catastrophe.

Second, it is necessary to take comprehensive approaches towards human rights issue of the DPRK. In addition to those rights enshrined in the five international human rights treaties[1] that the government of the DPRK has ratified and signed, other rights such as the right to development, right to peace and cultural rights should also be taken into consideration. Among all, to guarantee rights to peace for all people residing in the Korean Peninsula, economic sanctions against the DPRK should be lifted, confrontations between two Koreas should be turned into a cooperative relationship and a dialogue on denuclearization of the Korean Peninsula should be resumed immediately.

Third, enhancing the human rights situation in the DPRK should be in line with other universal values enshrined in the UN Charter, Vienna Declaration and the Programme of Action along with other international human rights treaties. Based on these values, humanitarian aid and efforts to settle peace in the Korean Peninsula should also be continued. The international community, including the ROK should embrace development, humanitarianism and peace to enhance the human rights of the North Korean people.

We call upon the government of the DPRK:

- To establish practical measures to protect and promote human rights in the country;
- To accept technical cooperation to improve human rights, instead of denying and refusing its human rights violations.

We call upon the international community:

- To continue monitoring human rights in the DPRK, providing technical cooperation and human rights dialogue with the DPRK;
- To ensure that the Commission of Inquiry on DPRK should have balanced and careful approach to effectively improve the human rights situation in the DPRK;
- To support humanitarian aid and development aid to be carried out together for sustainable development of the DPRK because humanitarian aid goes beyond the right to survival;
- To urge all parties concerned, including the two Koreas, to participate in political dialogue in order to solve humanitarian issues including reunions for separated families and abductees during/after the Korean War;
- To support efforts to transit from an armistice to peace system to guarantee the right to peace for all people in the Korean Peninsula and to prepare a peaceful reunification for the Korean Peninsula; and
- To support improvement of the relationship between the two Koreas, the DPRK and the U.S. and the DPRK and Japan, while lifting sanctions and military pressures against the DPRK.

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* Catholic Human Rights Committee, Democratic Legal Studies Association, Human Rights Foundation SARAM, Korea Human Rights Policy Institute, Peace Network and Seoul Migrant Workers Center non-governmental organisations without (ECOSOC) consultative status also endorse the joint written statement. Attorney LEE, Sock-Bum, Chairman, North Korea Human Rights Subcommittee of Korean Bar Association NGO(s) without consultative status, also share the views expressed in this statement.

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[1] International Covenant on Civil and Political Rights(ICCPR), International Covenant on Economic, Social and Cultural Rights(ICESCR), Convention to Eliminate All Forms of Discrimination Against Women(CEDAW), Convention on the Rights of the Child(CRC), and Convention on the Rights of Persons with Disabilities(CRPD). The government of the DPRK signed the CRPD but not ratified it yet.

United Nations A/HRC/25/NGO/84

General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Aliran Kesedaran Negara National Consciousness Movement, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11408
1411408

Please recycle

Threats to Freedom of Religion or Belief in Malaysia*

Malaysia has a population of 30m people, with 60 per cent of the population practising Islam, 19 per cent Buddhism, 9 per cent Christianity, 6 per cent Hinduism and 5 per cent other faiths and beliefs. Although Malaysia remains a secular state and its constitution guarantees freedom of religion, many Malaysians continue to face serious and systemic religious intolerance and persecution. Although Muslims may proselytise to non-Muslims, under Article 11(4) of the Malaysian Constitution, proselytisation by those of non-Muslim faiths to Muslims is prohibited.[1] Freedom of religion was one of the key issues discussed during Malaysia's second cycle of the Universal Periodic Review, with several states including Austria[2], Canada[3], Italy[4] and Poland[5] making critical comments and recommendations. In January 2014, Amnesty International stated *"It is concerning to see the Malaysian authorities increasingly taking their cue from hard-line religious groups and others seeking to silence those who espouse views that differ from their own agenda".*[6]

A court ruling in October 2013 prohibits non-Muslims from using the word Allah to refer to God. The appeals court stated that the term Allah must be exclusive to Islam or it could cause public disorder.[7] According to the Christian Federation of Malaysia, about 60 per cent of the 2.6m Christians in the country use the word "Allah" to refer to God. In a statement made at the second cycle of Malaysia's Universal Periodic Review (UPR) in October, the Malaysian Government stated that the Court ruling was a preventive measure to ensure public safety and to protect public order in Malaysia.[8]

In November 2013, the UN Special Rapporteur, Mr Heiner Bielefeldt, urged the Government of Malaysia to reverse its decision to ban a Catholic publication from using the word Allah to refer to God, warning that the case may have far-reaching implications for religious minorities in the country. UN Independent Expert on minority issues Ms Rita Izsák stated that, *"Discrimination on the grounds of religion or belief constitutes a violation of human rights and fundamental freedoms, and in this instance is a breach of the rights of a religious minority to freely practise and express their faith as they have done for generations. Such actions may present an obstacle to friendly and peaceful relations between faith communities."* The UN Special Rapporteur on freedom of expression, Mr Frank La Rue, has also echoed these statements: *"The Ministry of Home Affairs and the Government of Malaysia should take necessary steps to secure immediately the right to freedom of opinion and expression of Herald – The Catholic Weekly and withdraw unconditionally from further litigation on this issue".*[9]

On 2 January 2014, officers from the Selangor Islamic Department (Jais) raided the Bible Society of Malaysia (BSM) and seized 321 copies of the Bible in the Ma'ay language and a further 10 bibles in the Iban language because they used

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1 The Constitution of Malaysia. Part I – The States, Religion and Law of the Federation.

2 A/HRC/25/10 - Report of the Working Group on the Universal Periodic Review: Malaysia - "Take measures to ensure that all persons, including Muslims, can freely exercise their right to freedom of religion and belief without interference by the state and including the right to change their religion". http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx

3 A/HRC/25/10 - Report of the Working Group on the Universal Periodic Review: Malaysia - "It encouraged removing restrictions on freedom of expression, assembly and religion, and ending faith-based governmental discrimination". http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx

4 A/HRC/25/10 - Report of the Working Group on the Universal Periodic Review: Malaysia - "Revise Malaysia's legislative framework in order to ensure freedom of religion or belief for all". http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx

5 A/HRC/25/10 - Report of the Working Group on the Universal Periodic Review: Malaysia - "Poland expressed concern about attempts to tighten control over the Internet, and to restrict bloggers and limit the number of publications of various religions". http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx

6 Amnesty International Press Statement – "Malaysia: Move to outlaw human rights groups is an assault on freedom" - 8th January 2014. - http://www.amnesty.org/en/news/malaysia-move-outlaw-human-rights-groups-assault-freedom-2014-01-08

7 BBC News – "Malaysia court rules non-Muslims cannot use 'Allah' - 14th October 2013 - http://www.bbc.co.uk/news/world-asia-24516181

8 A/HRC/25/10 - Report of the Working Group on the Universal Periodic Review: Malaysia - 4th December 2014. http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx

9 OHCHR "UN expert urges Malaysia to reverse decision that restricts use of 'Allah' to Muslims" - 25th November 2013. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14023&LangID=E

the world Allah to refer to God. Jais unlawfully conducted the raid without a warrant and threatened to force their way into the office of BSM if they would not open the door for them. During the raid, the Jais officers also arrested the Bible Society's president, Lee Min Choon, and office manager, Sinclair Wong, for allegedly violating that decree. Both were later released on bail.[10]

The Jais raid is a blatant violation of freedom of religion, which is guaranteed under Article 11 of the Malaysian Federal Constitution and enshrined in the Universal Declaration of Human Rights to ensure all human beings are able to practise their religion and belief freely. On 7 January 2014, police began investigating the editor of the Catholic weekly Herald, Father Lawrence Andrew, under the Sedition Act 1948, for saying that the word Allah will continue to be used in services conducted in Bahasa Malaysia (the Malay language) in churches in Selangor.[11] Following this statement in January, about 400 Muslim protesters burned an effigy of Father Lawrence in front of a police station in Selangor and in its Friday sermon. The Malaysian Islamic Development Department (Jakim) told Muslims that they were expected to be aware of any agenda to reduce the supremacy of Islam.[12]

On 8 January 2014, the Ministry of Home Affairs declared in a press statement that the Coalition of Malaysian NGOs involved in the UPR process (Comango), which consists mainly of non-Islamic organisations, promotes rights which are not in line with Islam and is therefore illegal. Since Comango's submission to the second cycle of the UPR, which took place on 24 October 2013, the coalition has been subjected to harassment and threats by both state and non-state actors. The coalition has been accused of attacking Islam and of spreading beliefs that do not conform to Islamic teachings.[13] UN Spokesperson for the UN High Commissioner for Human Rights, Mr Rupert Colville, stated on 10 January 2014 that, "*We are concerned at what appears to be an act of reprisal against Comango for its engagement with international human rights mechanisms, notably the UPR*".[14]

In late October 2012, a group of parents lodged police reports against teachers at an Orang Asli (indigenous peoples) school in Kelantan, for slapping their children because they did not recite the *doa* (Islamic prayer) after having their lunch.[15] The Orang Asli children are non-Muslim and did not know how to recite the prayer; so they remained quiet. According to deputy chairperson of the school's Parents-Teachers Association, Arom Asir, the children's faces were bruised after being slapped by a male teacher. Arom Asir added that the parents did not know that their children were being taught Islamic studies at the school or being made to recite Islamic prayers. In Malaysia, under Section 17 of the Aboriginal Peoples Act 1954, no Orang Asli child shall be obliged to receive religious teachings, without prior consent from their parents. On 7 November 2012, the family of Hassan Achoi was approached and offered RM300 to retract their police report. The Deputy Education Minister Wee Ka Siong later confirmed in Parliament that the incident did take place and said that disciplinary action was "under way". However, he said, it was up to the police to investigate any criminal offence which the teacher may have committed.

On 20 January 2014, The Malaysian Insider reported that 64 people, including children, from three remote and impoverished villages in Pitas, Sabah were allegedly tricked into converting to Islam in exchange for "welfare assistance". The communities were told to give their name and identity card number in exchange for "financial assistance" at a local mosque. Despite the communities being unable to read or write they were asked to sign a form using their fingerprint. These forms were later passed to a church elder who informed the villagers that it was a consent form and that they had consented to be converted to Islam. Christian NGOs in Sabah are currently engaging a lawyer to seek legal redress and the villagers have lodged a police report urging the police to investigate their claim of 'covert

10 Suara Rakyat Malaysia (SUARAM) Press Statement: "JAIS raid a diversion of public attention on rising living cost!" - 4th January 2014, http://www.themalaysianinsider.com/sideviews/article/jais-raid-a-diversion-from-rising-living-costs-suaram

11 The Malaysian Insider – "Police question Catholic priest under sedition" - 8th January 2014 - http://www.themalaysianinsider.com/malaysia/article/police-question-herald-editor-under-sedition-act

12 The Malaysian Insider - "Jakim reminds Muslims to protect supremacy of Islam" - 17th January 2014 - http://www.themalaysianinsider.com/malaysia/article/jakim-reminds-muslims-to-protect-supremacy-of-islam

13 Amnesty International Press Statement – "Malaysia: Move to outlaw human rights groups is an assault on freedom" - 8th January 2014. - http://www.amnesty.org/en/news/malaysia-move-outlaw-human-rights-groups-assault-freedom-2014-01-08

14 United Nations News Centre – "Malaysia: UN rights office urges Government to rethink ban of civil society group" 10th January 2014 - http://www.un.org/apps/news/story.asp?NewsID=46907&Cr=malaysia&Cr1=#.Ut5exBaCo_U

15 Malaysiakini – "Agencies apologise over Orang Asli kids' slapping" - 9th November 2012 - http://beta.malaysiakini.com/news/213241

conversion' so they can retain their faith as Christians.[16] It is claimed that an NGO called Pusat Dayak Serantau (PDS) headquartered in Kajang, Selangor had allegedly propagated at the longhouses.[17]

In Malaysia, there is little tolerance for a Muslim practising a branch of Islam besides Sunni. A 1996 *fatwa* by Malaysia's top Islamic clerics banned Shi'ism, declaring it a deviant ideology.[18] So far ten states have banned the Shia faith under the Anti-Syariah Enactment Law whereas four states, namely Pahang, Kelantan, Sabah and Sarawak are in the process of doing so. In 2013, Malaysia's official religious authority, Jakim, claimed that Shias are not Muslims.[19]

In September 2013, a media report stated that enforcement agencies had detained 16 people and carried out 120 inspections in connection with those identified as linked to the dissemination of Shia teachings in the country.[20] On 28 September 2013, a raid was conducted at a Shia Islamic centre in Selangor. Religious authorities broke in, seized property, including a sum of money to be donated to an orphanage and valuable items belonging to adherents of Shia Islam, and damaged the premises.[21] On 21 October 2013, an imam of a mosque in Pahang was detained on suspicion of practising Shi'ism.[22] On 31 October 2013, three men charged with possession of documents and books on the teachings of Shia Islam pleaded not guilty in court. They were accused of possessing a banner with the name of twelve saints considered very important within Shia Islam, possessing 103 copies of the book Sunni-Shia Dialogue and possessing a document entitled Tears of Karbala.[23]

Recommendations

We entreat the UN Human Rights Council and Permanent Missions to make urgent representations to the Malaysian Government, urging them to:

- Invite UN Special Rapporteur on Freedom of Religion and Belief, Mr Heiner Bielefeldt, to visit Malaysia as soon as possible to conduct an independent inquiry with the full cooperation of the Malaysian government.

- Promote policies and practices that ensure the rights of every religious group to exercise its faith free from legal, political, or economic restrictions.

- Take immediate legal actions to arrest and charge extremist groups and individuals that incite hatred and violence against others on religious grounds.

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*Suara Rakyat Malaysia (Suaram) NGO(s) without consultative status, also share the views expressed in this statement.

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16 The Malaysian Insider – We were tricked into converting to Islam, claim Christian villagers in remote Sabah district" - 20th January 2014 - http://www.themalaysianinsider.com/malaysia/article/we-were-tricked-into-converting-to-islam-claim-christian-villagers-in-remot

17 The Malaysian Insider – "Money for religion deal 'unhealthy" - 22nd January 2014 - http://www.freemalaysiatoday.com/category/nation/2014/01/22/money-for-religion-deal-unhealthy/

18 Syiah Di Malaysia http://www.e-fatwa.gov.my/fatwa-kebangsaan/syiah-di-malaysia

19 The Malaysian Insider - "Shias are not Muslims, claims Jakim – Bernama" - 13th December 2013 http://www.themalaysianinsider.com/malaysia/article/all-branches-of-syiah-teachings-in-malaysia-are-un-islamic-claim-jakim-bern]

20 The Malaysian Insider - "16 Shiites arrested 130 monitored by cops says minister" - 24th September 2013 - http://www.themalaysianinsider.com/malaysia/article/16-shiites-arrested-130-monitored-by-cops-says-minister

21 Sinar Harian - "Port Syiah diserbu" - 28th September 2013 - http://www.sinarharian.com.my/port-syiah-diserbu-1.206383]

22 Berita Harian -"Imam amal ajaran Syiah akan didakwa" - 22nd November 2013 http://www.bharian.com.my/bharian/articles/ImamamalajaranSyiahakandidakwa/Article/

23 Sinar Harian - "Tak mengaku miliki buku Syiah" - 31st October 2013 - http://www.sinarharian.com.my/semasa/tak-mengaku-miliki-buku-syiah-1.216144]

United Nations A/HRC/25/NGO/85

General Assembly

Distr.: General
3 March 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11609
1411609

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Torture and other cruel, inhuman or degrading treatment in Uzbekistan

Despite some formal steps toward strengthening safeguards against torture and other cruel, inhuman or degrading treatment or punishment, serious concerns remain about Uzbekistan's failure to implement existing laws and safeguards, to adopt new effective measures toward the prevention of torture, and to hold accountable those responsible for torture. Amnesty International is concerned that impunity prevails in Uzbekistan as the prosecution of individuals suspected of being responsible for torture or other ill-treatment continues to remain the exception rather than the rule.

Amnesty International has continued to receive persistent and credible allegations of routine and pervasive torture and other ill-treatment by security forces during arrest, transfer, in police custody and in pre-trial detention and by security forces and prison personnel in post-conviction detention facilities. These include scores of reports that individuals charged with or convicted of "anti-state" and terrorism-related offences, in particular members or suspected members of political opposition parties and banned Islamic movements or Islamist groups and parties continue to be particularly vulnerable to being tortured or otherwise ill-treated by security forces.

Methods of torture or other ill-treatment in detention described by former prisoners, including released human rights defenders, include beating detainees with batons, iron rods, bottles filled with water while they are handcuffed to radiators or suspended from ceiling hooks, asphyxiation with plastic bags or gasmasks with the air supply turned off, inserting needles under finger or toenails, electroshock, dousing with freezing water and rape of both men and women. Amnesty International's research shows that in the vast majority of cases the authorities have failed to conduct effective investigations into allegations of torture or other ill-treatment by detainees.

At the recent public examinations of Uzbekistan's human rights record at the UN's Universal Periodic Review (UPR) in April 2013[1] and at the UN Committee against Torture review in October 2013[2] the Uzbekistani delegation rejected all allegations of the continuing routine and pervasive use of torture and other ill-treatment by security forces and prison personnel.

High incidence of torture and other ill-treatment in Uzbekistan has been recognised by the European Court of Human Rights. The Court has been faced with determining the risk of torture and other serious human rights violations in Uzbekistan in cases relating to challenges to orders to forcibly transfer individuals from Council of Europe Member States back to Uzbekistan. The European Court of Human Rights has issued at least 20 judgments in the past four years prohibiting the return of criminal suspects to Uzbekistan on the basis of a risk of torture, especially those charged with membership of Islamist parties or groups that are banned in the country.

Forcible return to Uzbekistan

Amnesty International is concerned that individuals returned to Uzbekistan from other countries pursuant to extradition requests in the name of security and the "fight against terrorism" have been held in incommunicado detention upon return, thereby increasing their risk of torture or other ill-treatment.

Amnesty International's research has shown that Uzbekistan has relentlessly pursued the extradition or otherwise forcible return of hundreds of individuals it suspects of having organized or participated in a number of alleged violent acts in Uzbekistan including bomb explosions in Tashkent in 1999 and 2004; the Andizhan protests in 2005 – when security forces fired on thousands of mostly unarmed demonstrators, including women and children -- and other violent acts, including bombings and shootings by armed groups, in Tashkent and the Ferghana Valley in 2009. The government also has requested the extradition of political opponents, government critics and wealthy individuals out of favour with the regime. Many of these extradition requests are based on fabricated or unreliable evidence. The

[1] http://www.ohchr.org/EN/HRBodies/UPR/Pages/UZSession16.aspx
[2] http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=809&Lang=en

government has offered "diplomatic assurances" to sending states to secure the returns, pledging free access to detention centres for independent monitors and diplomats. In practice, they have not honoured these guarantees.

Use of coerced "confessions" in criminal proceedings

Torture and other ill-treatment continue to be used specifically to extract confessions and other incriminating information and more generally to intimidate and punish detainees, including human rights defenders, individuals perceived to be political opponents or who have fallen out of favour with the authorities. The courts continue to heavily rely on these so-called "confessions" extracted under torture, duress or deception[3]. Too often judges are willing to ignore or dismiss as unfounded allegations of torture or other ill-treatment, even when presented with credible evidence in court, despite directives by the Plenum of the Supreme Court of Uzbekistan explicitly prohibiting the use of torture to extract confessions and the admissibility of such tainted evidence in court proceedings.[4] Such directives have been issued twice in the last decade, but have had virtually no effect. The authorities should take immediate steps to incorporate these directives into the Criminal Procedural Code to make the prohibitions part of domestic criminal law and legally binding. They should also take further steps to ensure that these provisions are consistently implemented.

In addition, the Criminal Procedure Code only explicitly mentions torture once, namely in Article 17: "Nobody may be subject to violence, torture, or other cruel or degrading treatment." In all other Articles more general descriptive terms such as "illegal acts", "violence" and "threats" are used, allowing scope for interpretation. Amnesty International believes that it is essential that torture is mentioned explicitly in the Criminal Procedural Code as exclusionary grounds for evidence in all the relevant Articles. This would reinforce the prohibition of torture as a means of extracting evidence and be in line with Uzbekistan's international obligations under the Convention against Torture.

Prison conditions and monitoring

Amnesty International's research indicates that certain categories of prisoners, such as human rights defenders, government critics and individuals convicted of membership of Islamist parties and groups or Islamic movements banned in Uzbekistan, are often subjected to severe punishment regimes in prisons where they serve their sentences, and have their sentences extended for long periods even for alleged minor infractions of the prison rules. For example, they are often put in punishment cells, which have been described by former prisoners as small rooms, often windowless and made of concrete, with no heating, no natural light or ventilation and too small for a bed. They are often denied adequate medical care, are often forced to work long hours doing physically demanding manual labour such as building work or making bricks, with basic tools, inadequate clothing and little food and water. Former prisoners report that they were frequently beaten by prison guards and other prisoners.

Uzbekistan has no independent monitoring mechanisms in place to inspect all places of detention and no independent non-governmental organizations, domestic or international, carry out any form of regular, unannounced and unsupervised prison monitoring. In April 2013 the International Committee of the Red Cross (ICRC) made a public statement that it had taken the very difficult decision to terminate all visits to detainees in Uzbekistan because the ICRC was unable to conduct such visits according to their standard working procedures and as a result, those visits were "pointless"[5]. Diplomats, while granted access to some detention facilities, are as a rule accompanied by prison or law enforcement officials during their visits.

Finally, the Government of Uzbekistan has not yet responded to numerous requests by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country. Amnesty International is concerned that Uzbekistan appears determined to remain closed to meaningful international scrutiny and is deeply disappointed that Uzbekistan has rejected recommendations to strengthen and deepen its interaction with international

[3] Uzbekistan: Submission to the United Nations Committee against Torture, AI EUR 62/011/2013, 28 October 2013 http://amnesty.org/en/library/info/EUR62/011/2013/en

[4] Two Resolutions by the Plenum of the Supreme Court were adopted in December 2003 (Resolution № 17, 19 December 2003) and September 2004 (Resolution № 12, 24 September 2004).

[5] http://www.icrc.org/eng/resources/documents/news-release/2013/04-12-uzbekistan-detainees.htm

mechanisms, including the Special Procedures of the Human Rights Council, as "not part of its obligations under internationally agreed human rights standards"[6].

Amnesty International also continues to have serious concerns in relation to the lack of an independent, impartial, thorough and effective investigation of events in Andizhan in May 2005. During the UPR interactive dialogue, the Uzbekistani delegation categorically stated that "the issue [of an international investigation into the events] of Andizhan is closed for us!"[7].

The policies and practices highlighted above reflect a deep-seated culture of impunity for torture and other human rights violations in Uzbekistan and the continued failure by the Uzbekistani authorities to genuinely commit to, and fully and effectively implement, its obligations as a state party to the Convention against Torture and the International Convention on Civil and Political Rights. Time and again the Uzbekistani government has failed to effectively implement the recommendations of the Committee against Torture and other UN treaty bodies and special procedures, especially with regard to initiating prompt, thorough, independent and impartial investigations into allegations of torture or other ill-treatment. Amnesty International is particularly concerned that the authorities continue to dismiss as unfounded the allegations of torture at the hands of law enforcement officials raised by a number of individuals whose cases Amnesty International and other human rights organizations, as well as the UN Special Rapporteur on torture, have relayed to the Uzbekistani government.

[6] A/HRC/24/7, p. 27, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/154/79/PDF/G1315479.pdf?OpenElement
[7] A/HRC/24/7, p. 7

United Nations A/HRC/25/NGO/86

General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the People's Solidarity for Participatory Democracy and MINBYUN-Lawyers for a Democratic Society, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Democratic oversight of the National Intelligence Service of the Republic of Korea*

After the National Intelligence Service (NIS) of the Republic of Korea illegally intervened in the last presidential elections in 2012, civil society organisations of the Republic of Korea have called upon the government to conduct a transparent and independent investigation, and establish mechanisms to prevent recurrence. Among all, excessive scope of mandate and power of the NIS, arbitrary use of its power and intervention in domestic politics and lack of democratic control of the NIS have been pointed out as major problems. It is crucial to establish democratic oversight mechanisms and minimise the mandate of the NIS to prevent illegal and political abuse which has led to a potential inbred abuse of State power.[1]

Several state agencies including the NIS, Cyber Command of the Ministry of National Defence and Ministry of Patriots and Veterans Affairs illegally intervened in the last presidential election in 2012 to support the then ruling party. The NIS even operated a psychological operations division consisting of around 70 staff, as well as civilians, and intentionally created negative public opinion on the Internet by posting several articles and retweeting comments that slandered opposition party candidates while supporting ruling party candidate during the election.[2] In February 2014, the prosecutors' office confirmed that at least 786,000 messages had been posted or retweeted from 1,157 Twitter accounts belonging to members of the NIS psychological operations division.[3] As a result, a former director of the NIS and some senior staff have been indicted and gone under trial. The National Assembly established a Special Commission on Reforming the NIS.

We express our grave concerns that the investigation process on this case is not transparent and independent while cover up and interfering investigation is ongoing. Individuals are not absolved of criminal responsibility for serious human rights violations by virtue of having been requested to undertake an action by a superior.[4] Nevertheless, the prosecutors' office suspended or dropped indictments on relevant staff who were directly involved in the illegal intervention in the presidential election, under the reason that these staff just followed their superiors' order. The current director of the NIS, Mr. Jae-joon NAM, argued that it was a part of 'legitimate internal psychological warfare', and ordered NIS staff not to cooperate with the prosecutors' investigation, and even provided legal fees for some staff that went under trial. On the other hand, he took disciplinary action against whistleblowers who revealed the facts about illegal intervention in the election by the NIS.

We deplore that the current system and operation of the NIS in the Republic of Korea is far from good practice as presented by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in 2010.[5] This is the root cause of illegal political intervention by the NIS and following non-transparent investigation.

The NIS is a single agency for security and intelligence which deals with both foreign and domestic information at its own discretion. As a secret information institute, it has a mandate to investigate cases related to national security, especially for those cases related to the Democratic People's Republic of Korea(DPRK), and has an execution power such as planning and coordination among government bodies on the issues related to national security. In addition to this, the NIS is performing anti-DPRK and internal psychological warfare without any legal grounds.

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[1] 71s Plenary Session of the Venice Commission, Report on the Democratic Oversight of the Security Services, 11 June 2007, para. 5
[2] People's Solidarity for Participatory Democracy, Republic of Korea: Illegal Intervention by State Agencies in the Presidential Election, 11 December 2013, http://www.peoplepower21.org/English/1128957
[3] The Hankyoreh, NIS could have posted 22 million political messages online, 6 December 2013, http://english.hani.co.kr/arti/english_edition/e_national/614300.html. In December 2013, the prosecutor's office identified 22 million messages from 2,653 Twitter accounts, but in February, they reduced the number in the indictment, saying that they did not count the twitter messages which seem to be written by 'outside supporters' of the NIS.
[4] 14th Session of the UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, A/HRC/14/46, 17 May 2010, Para. 24
[5] *Ibid*

First, the NIS of the Republic of Korea have a mandate to directly investigate, arrest and detain a person for cases related to national security under the National Security Act, even though the function of intelligence services should be limited to the collection, analysis, and dissemination of information.[6] As mentioned above, the NIS also has an executive power of planning and coordination among government bodies on the issues related to national security. 'Background check' by the Ministry of Security and Public Administration, 'Censorship and Investigation of theatric works and films', 'Psychological operation against the DPRK' by the Ministry of Culture, Sports and Tourism are typical examples of the executive power of the NIS.

Second, the mandates of intelligence services should be narrowly and precisely defined in a publicly available law to prevent the abuse of its mandate, which is highly possible based on its nature to legally perform illegal activities.[7] Instead of utilizing good practice, a scope of mandate defined in the National Intelligence Service Act is very vague and broad, and the NIS performs activities not based on the law but of presidential decree (eg. provision of security operation, the act of adjustment planning for provisions of security and information operation) and regulations (eg. the guideline of counter-terrorism, the national cyber security management regulation). Scope and content of "regulations" which can be established arbitrarily by the director of the NIS is also too exclusive which threats actual constitutionalism of the country which is guaranteed by the Constitution of the Republic of Korea.

Third, the intelligence services should not engage in any political activities and abuse of its power to violate human rights or legitimate political actions.[8] Even though the National Intelligence Service Act Article 9 prohibits involvement in politics, political intervention by the NIS is common practice in reality.[9] Even today, where the NIS is going under trial for its illegal intervention in the presidential election, it argues that it was a 'legitimate internal psychological warfare' to protect 'people from being contaminated' from psychological warfare by the DPRK. In addition to supporting or slandering politicians, the NIS posted comments criticizing civil society organizations which have dissented views from the government such as No Jeju Naval Base campaign, Korean Confederation of Trade Unions and Korean Teachers and Education Workers Union.[10] This shows that the NIS has been abusing its power to violate the human rights and systematically narrowing the space of human rights defenders who legitimately claim for their rights.

Fourth, the institutions responsible for addressing complaints and claims for effective remedy arising from the activities of intelligence services should be independent of the intelligence services and the political executives. Such institutions should have full and unhindered access to all relevant information, the necessary resources and expertise to conduct investigations, and the capacity to issue binding orders.[11] However, when the NIS violates human rights such as illegal surveillance, it is hard to expect a transparent investigation. The NIS itself holds investigation rights against its own staff and if other investigative agencies want to detain the NIS staff, they should notify the director of the NIS in advance which makes it difficult to conduct an independent and transparent investigation.[12] Even if someone files a complaint on human rights violation by the NIS to the National Human Rights Commission of Korea (NHRCK), the NHRCK cannot fully access the information for deliberation and their decision is not legally binding.

Lastly, even though the NIS has excessive power as described above, democratic control mechanism by the judicial, legislative and administrative bodies are not strong enough. The Intelligence Committee was established in the National Assembly to monitor works of the NIS but members of the Intelligence Committee have additional positions in other Committees. Meetings are not public and limited information is disclosed due to confidential information protection and members cannot get support from expert groups or advisors. In addition, the NIS dispatched Information Officers to state agencies including the National Assembly to surveil. It is known that these Information Officers monitor and report situation of the National Assembly and carry out surveillance. According to the Protection of Communications

[6] *Ibid*, practice 1, para. 9
[7] *Ibid*, practice 1-5
[8] *Ibid*, practice 12
[9] National Intelligence Service Act Article 9. Prohibition of Involvement in Politics
[10] The Hankyoreh, Another state agency found interfering in elections, 15 October 2013, http://english.hani.co.kr/arti/english_edition/e_national/607129.html
[11] *Supra* note 5, practice 10
[12] National Intelligence Service Employees Act, Article 23, Investigation on employees

Secrets Act, the NIS requires a court warrant when wiretapping on local people,[13] but the scope of wiretapping is excessively broad, such as whole Internet packet by using deep packet inspection, and annually the NIS wiretapping consists of at most 98.5% of all wiretapping among all intelligence and investigative agencies.[14]

We call upon the government of the Republic of Korea:

- To conduct a independent and transparent investigation on the illegal intervention of state agencies in the election by appointing an independent special prosecutor team;
- To take legal action against those who ordered and conducted human rights violations to end impunity;
- To abolish its duty to collect, compile and distribute domestic public security information and to prohibit its involvement in domestic politics;
- To abolish investigative rights of the NIS and transfer it to other investigative agencies;
- To abolish the psychological operation function of the NIS;
- To establish mechanisms in the judicial and legislative bodies to strictly monitor works of the NIS to prevent human rights violations of local people and foreigners during its operations, especially when surveilling and wiretapping;
- To enforce monitoring power of the National Assembly to make the NIS operate within a democratic scope.

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*Catholic Human Rights Commission, Korea Alliance for Progressive Movement, Korean Progressive Network Jinbonet NGO(s) without consultative status, also share the views expressed in this statement.

[13] Protection of Communications Secrets Act Article 7 (Communication-Restricting Measures for National Security) (1) 2: Approval shall be obtained from the President in writing with respect to communications of countries hostile to the Republic of Korea, foreign agencies or groups and foreign nationals under suspicion of antinational activities, or members of groups within the Korean Peninsula in effect beyond the sovereignty of the Republic of Korea and their umbrella groups based in foreign countries, and in the event of the proviso of paragraph (1)1.

[14] Statistics provided by the Ministry of Science, ICT and Future Planning (since 2013), the Korea Communications Commission(2008–2012), the Ministry of Information and Communication(2000–2007)

United Nations

A/HRC/25/NGO/87

General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11429

1411429

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The Human Rights Situation in Egypt

The scale and severity of ongoing human rights violations in Egypt requires immediate action by the Human Rights Council. Amnesty International urges the Council to condemn violations committed by the Egyptian authorities and to call for accountability in the face of mounting repression.

State institutions meant to provide protection against human rights violations and remedies have now become tools of oppression. Repressive legislation restricts the rights to freedoms of expression, association and assembly. The security forces commit gross human rights violations, using excessive force to disperse mostly peaceful protests, and arresting government opponents, activists, journalists and NGO workers. The judiciary has been quick to jail Mohamed Morsi's supporters and political activists on charges of violence and terrorism, while ignoring human rights violations by the authorities and abuses by the deposed president's opponents.

Some supporters of the Muslim Brotherhood have also committed abuses, and those who have committed criminal acts should face fair trials in line with international standards.

Unless the international community takes urgent steps, including in the Human Rights Council, to urge Egypt to end growing repression and deliver accountability, the cycle of human rights violations, abuse and turmoil is likely to escalate.

Excessive force by the security forces

The security forces have continued to use excessive force, including unnecessary lethal force, to disperse protests. Since 3 July 2013 alone, 1,400 people have been killed in political violence, most after security forces forcibly dispersed protests by Mohamed Morsi's supporters. In the bloodiest incident, security forces killed at least 550 people when they used excessive force to disperse Morsi supporters at Rabaa al-Adawiya Square in Cairo on 14 August 2013. Despite the scale of the bloodshed that day, not one member of the security forces has faced sanction, criminal investigation or formal charges.

Impunity

Three years after the "25 January Revolution", impunity for human rights violations remains the rule. Most human rights violations since the uprising have never been investigated and prosecuted and measures taken by the authorities to deliver truth and justice have proven toothless. A fact-finding committee appointed by President Mansour lacks the mandate to properly investigate human rights violations or to establish individual criminal responsibility for them. Furthermore, the committee does not have powers to compel government bodies to co-operate with it or to make its findings public. The authorities have appointed a new minister for transitional justice, but he has lacked the mandate and resources to work effectively and has publicly stated that the time is not right for transitional justice. The Prosecution has not effectively investigated the killings of hundreds of protesters by the security forces since 3 July.

Since the 2011 uprising, investigations have failed to bring any senior official or security officers to justice for their roles in deliberately killing or injuring protesters. The authorities have suppressed the findings of the fact-finding bodies appointed to investigate human rights violations. Egypt's new Constitution enshrines impunity for human rights violations by giving military courts continued jurisdiction over crimes linked to the armed forces.

The Egyptian authorities' unwillingness to investigate human rights violations should not go unchallenged by the international community. Amnesty International urges the Human Rights Council, its members and observer states to call on the authorities to take immediate action to deliver truth, justice and reparation for human rights violations. A key indicator of progress will be whether Egypt's investigations deliver accountability for the events of 14 August 2013 and the authorities make the findings of such inquiries public.

The Human Rights Council should also urge the Egyptian authorities to provide it with regular updates on progress in investigations and towards accountability. In the absence of tangible progress towards accountability in Egypt, the Council should consider alternative mechanisms to establish truth and accountability.

Crackdown on Mohamed Morsi's supporters

The security forces have led a sweeping crackdown on individuals perceived to be supporters of Mohamed Morsi, arresting thousands and detaining many without respecting their due process rights. Those detained include people who were peacefully expressing their opposition to the military. Some detainees have complained of torture or other ill-treatment by the security forces, and said authorities denied them adequate medical care in custody. Amnesty International urges the Council to press the Egyptian authorities to allow independent monitoring of prisons and other places of detention.

Amnesty International is also concerned at ongoing political violence, including attacks by armed groups. The organization condemns indiscriminate attacks, as well as attacks targeting civilians. However, the authorities are using the deteriorating security situation as a pretext to repress all forms of perceived opposition, including those who use lawful and peaceful means of protest. The Egyptian government has the right and duty to protect lives and prosecute those responsible for crimes, but they must not sacrifice human rights in the name of "countering terrorism". The government is also drafting counter-terrorism legislation which, if adopted, could impose further arbitrary restrictions on freedoms of expression, association and assembly and erode fair trial safeguards. In practice, the authorities are likely to use any new counter-terrorism powers to crack down on the Muslim Brotherhood. The authorities designated the Muslim Brotherhood as a "terrorist organization" in December 2013, but have not produced evidence linking it to the recent spate of attacks.

Widening restrictions on the rights to freedom of expression, association and assembly

In the months after 3 July 2013, the circle of repression has widened to encompass opposition activists, journalists and human rights activists.

The authorities have restricted freedom of expression. Journalists and media workers who have reported on abuses or criticized the authorities have faced harassment, arrest and trial on accusations of spreading false rumours and belonging to banned terrorist groups. The authorities have also closed down television stations known for their support of Mohamed Morsi.

The authorities have continued to suppress the work of human rights organizations. The government restricts the registration, funding and activities of civil society organizations, and it is drafting legislation that would further constrain freedom of association. On 18 December 2013, security forces raided the Egyptian Centre for Economic and Social Rights, arresting its staff and volunteers and subjecting them to ill-treatment.

The authorities have imposed new restrictions on freedom of assembly. A new protest law gives the Interior Ministry sweeping powers over demonstrations. The security forces have used the law to forcibly disperse protests staged by Mohamed Morsi's supporters, as well as other opposition and human rights movements, and to arrest and detain protesters.

Amnesty International urges the Human Rights Council to call for the release of all prisoners of conscience in Egypt, those detained solely for peacefully expressing their human rights to expression and assembly. They include activists Alaa Abd El Fattah; Ahmed Douma and Ahmed Abdel Rahman; 6 April Youth Movement founder Ahmed Maher; and journalists Peter Greste, Mohamed Fahmy and Baher Mohamed.

The organization further urges the Council to call on the Egyptian authorities to charge others detained as part of the crackdown on the Muslim Brotherhood with recognizably criminal offences and give them fair trials in line with international standards, or release them.

Discrimination against women and Coptic Christians

Women and Coptic Christians have faced a rising tide of violence and discrimination amid the political turmoil.

Women protesters continue to face the threat of sexual violence, with over a hundred such attacks around Tahrir Square reported in the week of 30 June 2013 alone. Despite the level of violence, and the fact that attacks regularly take place during protests, the authorities have taken little action to stop or investigate them, or to bring those responsible to justice.

Coptic Christians faced an unprecedented level of violence after the Rabaa al-Adawiya dispersal; sectarian attacks left four dead and 200 Christian properties and 43 churches damaged. The Egyptian authorities said the attacks were "terrorism", yet failed to ensure adequate, impartial and independent investigations – including into the security forces' failure to prevent and stop the violence. Despite government promises, victims have not received reparation and damaged churches have yet to be rebuilt. Amnesty International also notes continuing sectarian rhetoric against Coptic Christians from some supporters of Mohamed Morsi.

Lack of response by the Human Rights Council

Amnesty International urges the Human Rights Council to express its deep concern over the deteriorating human rights situation in Egypt. The organization notes its disappointment that the situation has yet to be the subject of formal discussion or action in the Council, despite the scale of violations.

As an immediate measure, the organization urges the Council to call on Egypt to facilitate the visits of UN special procedures, including the Working Group on Arbitrary Detention; the Special Rapporteur on torture and other cruel, inhuman, degrading treatment or punishment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

United Nations A/HRC/25/NGO/88

General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council
Twenty-fifth session
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Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Still waiting for accountability for Gaza/Israel conflicts

Amnesty International wishes to raise the issue of justice, truth and reparations for violations of international humanitarian law, including war crimes, committed by both parties during the conflicts in Gaza and Israel in December 2008-January 2009 and November 2012. Neither the Israeli authorities nor the Hamas de facto administration in Gaza have conducted independent, impartial and effective investigations or taken serious steps to hold their forces to account, as international law requires, for violations committed during either conflict. Instead of addressing this failure, the international community, including UN bodies, has continued to evade responsibility. Customary international law stipulates that statutes of limitations do not apply to war crimes or other crimes under international law. The Human Rights Council must help ensure that international law is upheld and meaningful steps towards accountability for war crimes are taken, including through international justice mechanisms such as the International Criminal Court (ICC).

When Israeli forces launched Operation "Pillar of Defense" on the Gaza Strip on 14 November 2012, Gaza's 1.7 million people were immediately reminded of Operation "Cast Lead" in December 2008-January 2009. The 2008-2009 conflict saw some 1,400 Palestinians and 13 Israelis killed. The Palestinian deaths included hundreds of civilians, among them some 300 children. Most were killed in Israeli attacks with long-range high-precision munitions; others were killed by Israeli ground troops. Three Israeli civilians also died as a result of indiscriminate rocket or mortar attacks by Palestinian armed groups. The UN Fact-Finding Mission on the Gaza Conflict confirmed in its September 2009 report, as Amnesty International and other human rights organizations had also documented, that both Israeli forces and Palestinian armed groups had committed war crimes during the conflict.

Following "Cast Lead", the Israeli military opened 52 criminal investigations into alleged violations during the conflict. The last public update on these investigations was issued by Israel's Military Advocate General (MAG) Corps in March 2011, but the MAG informed the government-appointed Turkel Commission in mid-2012 that seven investigations were still pending. The majority of these investigations were closed without any charges being filed, and the Israeli military has provided virtually no information about the few investigations still ongoing years after the conflict. These facts epitomize the wider problems with Israel's system of military investigations and the barriers Palestinian victims face in obtaining justice.

In the five years since "Cast Lead", only four Israeli soldiers of relatively low rank have been indicted for crimes committed during the conflict. Three of the four indictments failed to reflect the gravity of the crimes committed. Two Israeli army Givati Brigade soldiers who forced a nine-year-old boy to open bags they suspected of being booby-trapped, effectively using him as a "human shield", were charged with "exceeding authority" and "unbecoming conduct." Staff Sergeant S. was charged with manslaughter in a case relating to the killing of two women walking in a group carrying white flags after being ordered to evacuate their homes in Juhr al-Dik by Israeli forces. However, despite extensive evidence provided by an Israeli human rights organization, the military's investigation into the two women's deaths was ultimately closed and the charges against Staff Sergeant S. were reduced to "illegal use of a weapon" and "unbecoming conduct" after a plea bargain. He was sentenced to 45 days' imprisonment and a suspended six-month sentence.

Israeli investigations into other cases of civilians killed during the conflict while carrying white flags did not even lead to criminal charges. On 13 January 2009, 47-year-old Rawhiya al-Najjar was shot in the head as she walked ahead of a group of women carrying a white flag near her home in the village of Khuza'a, in the south of Gaza. Her 14-year-old daughter Heba, who was next to her when she was shot, told Amnesty International:

> *At about 8am we decided to leave and go to the centre of the village where we would be safe. My mother gave people white cloths to make flags and she also had a white flag and was at the front of the group... We walked a few steps and [another young relative] Yasmine said she saw soldiers in houses nearby. My mother turned her head to talk to the neighbours, telling them not to be afraid, and at that moment she was shot in the head, on the left side, and the bullet went through and out from the right side. She fell, and Yasmine tried to help her; she was also shot in the leg. Everybody ran back. Nobody could go to help my mother or to recover her body and she lay there on the road till the evening, when the soldiers left.*

Amnesty International's delegates examined the house where the soldiers who shot Rawhiya were reportedly stationed, and saw the hole made by the snipers in the wall of the house, which faced the spot where she was shot about 100m away. At least two human rights organizations, one Israeli and one Palestinian, submitted complaints in 2009 about the killing; in early 2012, the Israeli human rights organization B'Tselem was informed that the criminal investigation had been closed and that no charges would be filed.

In the eight-day conflict in November 2012, some 165 Palestinians, including more than 30 children and approximately 70 other civilians, and six Israelis, including four civilians, were killed. Israel made extensive use of precise weaponry, especially drone-fired missiles, during the conflict; Amnesty International documented 18 drone-fired missile strikes in which civilians were killed. Once again, neither side has conducted independent and impartial investigations into war crimes committed by its forces, and no one has been held accountable.

The Israeli military has disclosed few details of its inquiries into killings of civilians and destruction of civilian property in November 2012. To Amnesty International's knowledge, no criminal investigations have been opened. On 11 April 2013, the MAG Corps reported that inquiries into about 65 incidents from the conflict had been closed, while at least 15 further incidents were still being examined. The MAG stated that it had found no basis for initiating a criminal investigation in the 65 cases, which included an air strike on 18 November 2012 which killed 10 members of the al-Dalu family – including four children under the age of eight, a teenage girl, and four women – in their home, as well as two of their neighbours.

The MAG has published no further information on its examination of complaints from the conflict. It is clear that, once again, Israel's military investigations do not satisfy the international standards of independence, impartiality, effectiveness, thoroughness, promptness and transparency, and have so far served to perpetuate impunity rather than to provide victims with justice, truth or reparations.

The Hamas administration has failed to conduct investigations into the firing of indiscriminate rockets during either the 2008-2009 or November 2012 conflicts. Nor has anyone been held to account for the summary killings on 16 and 20 November 2012 of seven Palestinians who had been detained by the Hamas authorities for alleged "collaboration" with Israel.

The report of the UN Fact-Finding Mission on the Gaza Conflict and other authoritative reports submitted to the UN detailed the war crimes committed during Operation "Cast Lead". Reports on Operation "Pillar of Defense" by the Office of the High Commissioner of Human Rights and international and local human rights groups have also documented serious violations of international humanitarian law.[1]

The victims of both conflicts are still waiting for justice, and civilians on both sides fear the next conflict. Justice, truth and reparations are the best guards against future violations. This cannot be emphasized enough, especially as Palestinian and Israeli representatives discuss a US-brokered "framework agreement" that appears to ignore international humanitarian and human rights law, despite the fact that these should be at the core of any future negotiations.

Three years ago, the Human Rights Council recommended that the General Assembly reconsider the report of the UN Fact-Finding Mission on the Gaza Conflict and submit it to the Security Council and urge the latter to consider referring the situation in the Occupied Palestinian Territory to the ICC Prosecutor. This still has not happened. The Human Rights Council must continue to press for implementation of the Fact-Finding Mission's recommendations, and pursue justice, truth and reparations in relation to crimes committed by both parties to the Israel/Gaza conflicts in 2008-2009 and November 2012.

[1] See: Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1, Addendum, A/HRC/22/35/Add.1, issued on 5 March 2013.

Amnesty International urges the Human Rights Council to demand that Israel and the Hamas administration conduct independent, impartial and effective investigations into reports of crimes under international law and other human rights violations committed in November 2012. More than one year after the conflict, the Council should consider setting a deadline for such investigations, and mandating experts to monitor them, as was done after Operation "Cast Lead".

Finally, Amnesty International urges all Council members to keep open other avenues for justice, truth and reparations, including universal jurisdiction. All states have an obligation to seek to arrest alleged perpetrators of crimes under international law and bring them to justice in proceedings complying with international fair trial standards.

United Nations A/HRC/25/NGO/89

General Assembly

Distr.: General
27 February 2014

English only

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GE.14-11433

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The human rights situation in the Islamic Republic of Iran

Amnesty International submits this statement to the 25th session of the UN Human Rights Council on the third anniversary of the house arrests of two Iranian opposition leaders and 2009 presidential candidates, Mehdi Karroubi and Mir-Hossein Mousavi, and the latter's wife, university professor and political figure Zahra Rahnavard. They remain in detention without charge or trial, with no possibility to challenge the lawfulness of their detention.

On 14 February 2011, the Iranian authorities placed all three opposition figures under de facto house arrest after Mehdi Karroubi and Mir Hossein Mousavi called for demonstrations in support of the popular uprisings in the Middle East and North Africa region. Despite international calls for their release, the authorities continue to hold these opposition figures and monitor their communications.[1] Their families have also been harassed and persecuted, including by having restricted contact with them and being targeted for arrest. The three opposition figures remain in a legal limbo as no security body is claiming responsibility for their prolonged house arrest amid contradictory official statements.

Amnesty International has repeatedly called on the Iranian authorities to release the three individuals and stop the persecution of their families.[2] Their fate is symptomatic of the stalemate in the field of human rights in Iran.

The June 2013 election of Hassan Rouhani offered some hope for an improvement in the human rights situation in Iran. However, such hopes have not materialized into substantive change for individuals who have continued to be subjected to grave human rights violations. In fact, despite this Council's attention to the serious shortcomings in the human rights situation in Iran, the situation has remained dire in the four years since Iran's UPR examination in February 2010.

Seven months after the formation of the new administration, freedom of expression, association and assembly remain severely restricted, and incommunicado detention, torture and other ill-treatment continue to be used routinely. The authorities continue to convict individuals in trials marred with irregularities. They resort extensively to the death penalty, imposed largely for crimes that do not meet the criterion of "most serious" crimes. No concrete measures have been taken to eliminate discrimination against women and members of ethnic and religious minorities who face widespread discrimination in law and practice.

Iran has so far refused to co-operate with this Council's Special Rapporteur on the situation of human rights in Iran and has prevented independent assessment of the human rights situation in Iran by ignoring repeated requests made by UN human rights experts and NGOs to visit. Despite its 2002 standing Invitation, Iran has not received a visit from a Special Procedure since 2005.

Amnesty International urges the Human Rights Council to demand that Iran's stated commitment to co-operation with international human rights mechanisms be demonstrated by receiving visits by the Special Rapporteur on Iran in the near future and ensuring that state bodies extend full co-operation to him.

Administration of justice

Administration of justice in Iran remains severely flawed. Arbitrary arrest and detention, incommunicado detention, solitary confinement, the lack of or limited access to legal representation during pre-trial detention and the trial itself, forced and televised confessions, and unfair trials continue unabated.

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[1] Office of the High Commissioner for Human Rights, Iran: UN experts call for immediate release of key opposition leaders ahead of presidential elections, 11 February 2013, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12981&LangID=E

[2] Amnesty International, Iran: Release opposition leaders under house arrest three years on, 14 February 2014, (MDE 13/009/2014), http://www.amnesty.org/en/library/info/MDE13/009/2014/en; Amnesty International, Iran: End arbitrary house arrests of Mousavi, Karroubi, and Rahnavard; Free all prisoners of conscience, 11 February 2013 (MDE 13/009/2013), http://www.amnesty.org/en/library/info/MDE13/009/2013/en.

The draft Code of Criminal Procedure includes some provisions that if implemented could ensure better compliance with Iran's international human rights obligations; though, in practice, the restrictive interpretation of certain articles could still be used to deny detainees such rights as access to a lawyer from the time of arrest. The draft Code also fails to fully clarify which security agencies have the power of arrest.

There is widespread impunity for perpetrators of human rights violations, and allegations of torture and other ill-treatment, used routinely and widely, are not impartially and independently investigated. No-one has yet been brought to justice for the death of blogger, Sattar Beheshti, who died in custody in November 2012 allegedly as a result of torture or other ill-treatment while in custody. A medical examiner's report has stated that he died from internal bleeding in his lungs, liver, kidneys, and brain. Despite this, in December 2013, a court in Tehran closed the case against the interrogator accused of his murder after it dismissed the murder charge and determined the killing to be "quasi-murder". According to the family's lawyer, a new complaint must be filed for the new charge to be pursued.

Death penalty

Iran remains the second highest executioner in the world. In 2012, state authorities and media acknowledged 314 executions. In addition there were at least 230 executions not officially announced, bringing the total to at least 544 executions. It is believed that in 2013 much more than 600 people were executed in total. This includes individuals who may have been under 18 at the time of the alleged offence, despite the absolute prohibition in international law on the execution of juvenile offenders. Most of the people executed had been convicted of drug trafficking.

The revised Islamic Penal Code, signed into law in 2013, continues to include the death penalty, including for crimes that do not constitute "most serious crimes" under international law. These include drug trafficking, sexual relations outside marriage, "apostasy" and vaguely worded crimes such as "corruption on earth" (*ifsad fil-arz*) and "enmity against God" (*moharebeh*). The Code also maintains the punishment of stoning for "adultery while married" and only limits the scope of the death penalty for juvenile offenders for some crimes, thus falling short of Iran's obligations of an absolute prohibition.

Death sentences are frequently imposed following legal proceedings that violate international fair trial standards, including through the use of forced "confessions". Such "confessions" – occasionally televised on state TV – are often accepted as evidence in courts.

Secret and "retaliatory" executions have been carried out over the past year. In January 2014, Hadi Rashedi and Hashem Sha'bani Nejad, both members of Iran's Ahwazi Arab minority, were executed in secret. They had been shown "confessing" on a state television channel before their trial. Amnesty International understands that the families of the men were not told the exact date of their executions, and have not received their bodies. The families were told by an Intelligence Ministry official that they were not permitted to hold a public memorial service for the men and had only 24 hours to hold a private ceremony at home.

On 26 October 2013, the authorities in Sistan-Baluchestan province executed at least 16 Baluchi prisoners in an act of retaliation after a Sunni armed group, Jaish-ul-Adl (Army of Justice), reportedly killed 14 border guards in the city of Saravan in the same province, near the border with Pakistan, the previous day. A judiciary official in the province announced the same day that the individuals had been executed in response to the border attack.[3] He said that eight of those executed had been convicted of "enmity against God" and "corruption on earth" for their alleged membership in an armed militant group in Sistan-Baluchestan province. The other eight had been convicted of drugs offences. Such executions in retaliation for an act in which the prisoners were not involved puts into question the principles of criminal law, the foremost of which being that individuals should not be punished for a crime they did not commit.

[3] Amnesty International, Iran: Lives of two death row inmates from Kurdish minority at risk amid surge in executions, 28 October 2013, http://www.amnesty.org/en/news/iran-lives-two-kurdish-death-row-inmates-risk-amid-surge-executions-2013-10-28

Academic freedom

Amnesty International welcomes the positive changes in the area of higher education; in particular, the return of a number of students previously banned from pursuing higher education in universities. In September 2013, the interim Minister of Science, Research and Technology, Ja'far Tofighi, announced that the Ministry had established a working group to investigate complaints from banned students and academic staff. At the end of 2013, the Ministry reported that 126 banned students had been allowed to resume their studies.

Hundreds of other students, however, continued to be barred from higher education solely because of their peaceful exercise of their rights or due to official discrimination that bars members of unrecognized religious groups, including Baha'is, from accessing higher education in Iran. Numerous students remain imprisoned for their peaceful activism or on account of their conscientiously held beliefs.

Student activist Maryam Shafi' Pour, who has been banned from university education, has been detained since 27 July 2013. She spent over two months in solitary confinement in Section 209 of Tehran's Evin Prison without access to a lawyer, before being transferred to the prison's general ward. She was a member of the women's committee of Mehdi Karroubi's campaign for the 2009 elections. She is currently on trial on national security-related charges that appear to stem from her peaceful political activities.

Omid Kokabee, a member of Iran's Turkmen minority and a post-graduate physics student in the USA, was arrested at Imam Khomeini airport in Tehran in January 2011 while waiting for his flight back to the USA. He was held in solitary confinement for 15 months, subjected to prolonged interrogations, and was pressured to make "confessions". His televised trial in May 2012 before a Revolutionary Court in Tehran was marred with irregularities. He was denied the right to legal representation until his trial and no evidence was presented against him in court other than his well-known and public affiliations with academic institutions in the USA. He was sentenced to 10 years' imprisonment for having "connections with a hostile government." In November 2012, a General Court sentenced him to a further 91 days' imprisonment for receiving "illicit payments" in connection with the scholarships he had received for his studies.

Amnesty International welcomes the initiative announced in January 2014 by Ali Younesi, Hassan Rouhani's aide on ethnic and religious minority affairs, that the education of ethnic minority communities in their mother tongue is on the government's agenda. While this is a welcome step, the Iranian authorities must demonstrate that their words go beyond mere rhetoric by taking concrete actions to ensure that ethnic and religious minority groups, including Bahai's whose religion is not recognized under the Iranian Constitution, and whose students are banned from university education, have equal access to primary and higher education.

Iran must also eliminate all discriminatory policies against women, including gender quotas and the exclusion of women from some fields of study. In January 2014, student and women's rights activists presented to parliament 2000 signatures in support of a statement opposing the gender quota system used to discriminate against women in the 2012 and 2013 university entrance exams.

Amnesty International urges members of the Human Rights Council to respond to the grave human rights situation in Iran by adopting a resolution that addresses the widespread gross and systematic human rights violations in Iran and renews the mandate of the Special Rapporteur on the situation of human rights in Iran.